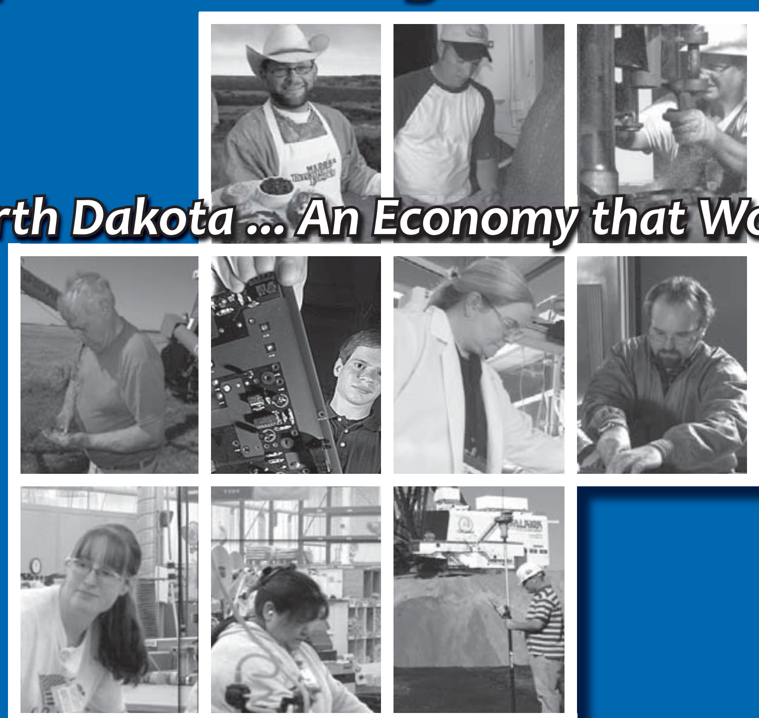
*North Dakota*
**Office of State Tax Commissioner**
**Cory Fong, Tax Commissioner**

# 50th Biennial Report

## For the Biennial Period of July 1, 2009 through June 30, 2011

*North Dakota ... An Economy that Works*



# Office Of State Tax Commissioner

State Of North Dakota

Cory Fong
Tax Commissioner

December 1, 2011

To: The Honorable Jack Dalrymple Governor
The Honorable Al Jaeger, Secretary of State

It is with great pleasure that I submit for your consideration the Fiftieth Biennial Report of the Tax Commissioner.

The report covers the operations of the Office of State Tax Commissioner for the period July 1, 2009 through June 30, 2011, and is submitted pursuant to North Dakota Century Code §§ 54-06-04 and 57-01-02.

Sincerely,

Cory Fong
Tax Commissioner

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### History of the Office of State Tax Commissioner

The Office of State Tax Commissioner has been a separate agency since 1912. Prior to 1912, the State Auditor handled some of the functions now performed by the Tax Commissioner. From 1912 to 1919, the Governor appointed a three-member nonpartisan Tax Commission to administer the tax laws of the state. As a result of a special election in 1919, the three-person tax commission was changed to a single Tax Commissioner whom the Governor was given the authority to appoint with consent of the Senate. A constitutional amendment adopted June 28, 1938 changed the Tax Commissioner post to an elective office with a term of four years. The measure also stipulated that the Tax Commissioner should be elected on a no-party ballot and that the first Commissioner would not be elected until the 1940 General Election. In 1987 the Tax Commissioner was removed from the no-party ballot. Of all 50 states, North Dakota is one of only three states in which the Tax Commissioner is elected.

Even though the legislation that created the commission allowed hiring a secretary, the Tax Commission budget was insufficient to support the position. The first department staff member was hired in 1913 and by 1928 the Department had grown to 12 employees. The Tax Department continued to grow as the state's population increased, as new tax types were added, as tax laws became more complex, and as new services were provided. By 1995 the number of employees peaked at 157.

In recent years, staff numbers have been reduced through attrition, through streamlining duties, and by finding efficiencies within the department as well as through effective utilization of technology. During the 2009-2011 biennium, the Office of State Tax Commissioner was authorized 133 permanent staff members – a reduction of 24 positions from the 1995 peak.

During the 2011 legislative session, the Tax Commissioner's Office requested two additional compliance officer positions for the Tax Administration Division. Because of substantial economic growth and business activities in the state, additional resources are needed to ensure compliance with the tax laws. The legislature directed the Department to reclassify an existing unfilled position from the Operations Division to a compliance officer and agreed to fund an additional full-time employee if the compliance activities of the first compliance officer generated $500,000 of new revenue within a nine-month period.

### The Office of State Tax Commissioner Accountability and Customer Service Initiatives

The Office of State Tax Commissioner is committed to providing prompt, accurate and courteous service while promoting compliance with the tax laws of North Dakota. The Tax Department is committed to improving customer service and increasing productivity with an eye on keeping costs to a minimum. The following list identifies the department's accomplishments during the 2009-2011 biennium:

#### Property Tax

***Property Tax Relief***

The 2009 Legislature provided for significant property tax relief by funding up to a 75 mill reduction in school district mill levies for all districts in the state. This resulted in an additional $295 million in biennial funding of K-12 education by the state, and resulted in reduced school district property taxes of up to 40 percent. Depending on the taxes levied by other taxing districts within the county, the net reduction in property taxes for property owners ranged from approximately 15 to 19 percent. The legislation also set aside $295 million in the property tax sustainability fund, ensuring that the property tax relief would continue into the 2011-2013 biennium.

The Property Tax Division recommended an amendment to the property tax relief program to correct an unintentional omission. The 2011 Legislature approved the amendment, continued the property tax relief program, and increased funding for the 2011-13 biennium to $341,790,000.

***Valuation of Agricultural Land***

The 2009 Legislature extended to 2012 the date by which counties are required to use soil type and soil classification data to determine the relative values of agricultural lands. The 2011 Legislature provided that funds withheld from non-compliant counties must be deposited in the agricultural land valuation fund, and returned to the county from which they were withheld upon certification from the Tax Commissioner that the county is in compliance. A Property Tax staff person continues to assist counties with their agricultural assessment programs and monitor their progress.

***Electric Generation, Distribution, and Transmission Taxes***

The 2009 Legislature repealed N.D.C.C. chapters 57-33 and 57-33.1 relating to taxation of rural electric cooperatives and cooperative electrical generating plants, and replaced them with chapter 57-33.2, electric generation, distribution, and transmission taxes. Taxes under chapter 57-33.2 are paid to the Tax Commissioner and transferred to counties by the State Treasurer. The Property Tax Division worked with legislators and industry representatives to develop appropriate tax rates and formulas to distribute the revenue equitably among political subdivisions. The Property Tax Division created and provides reporting forms to electric companies subject to taxation under this chapter, and certifies tax distributions to county auditors.

***Property Assessment***

The 2011 Legislature enacted Senate Bill 2294, relating to assessments of property, powers and duties of the State Supervisor of Assessments, listing of individual property records, duties of the State Board of Equalization, and duties of assessors. We continue to work with stakeholders on implementation of the provisions of SB 2294.

## Oil & Gas Implementation into GenTax

The Tax Department successfully implemented the conversion of oil and gas tax database and processing system into GenTax. The conversion into GenTax will ensure an efficient and robust tax administration system for oil and gas taxes.

## Discovery Achievements

GenTax integration has created opportunities for increasing the efficiencies for performing Discovery functions. Additional staff time dedicated to Discovery has resulted in collections of $5.3 million for income tax and sales tax.

The purpose of Discovery is to identify individuals or business entities that have not fulfilled a North Dakota filing requirement. Discovery also includes identifying those who may have filed returns, but underreported North Dakota taxable activity. Discovery functions would include following up on contacts made to the Tax Department about a particular entity that is involved in certain activities that would create a tax filing requirement.

The Department has always performed Discovery work, doing so as a function in several sections (sales tax, individual income tax, and corporation tax), rather than in a separate Discovery section. Prior to the implementation of GenTax, Discovery was an extremely manual and labor intensive process.

## Oil & Gas and Motor Fuel Taxation Agreements with Tribes

The Tax Department finalized a motor fuel tax agreement with the Turtle Mountain Band of Chippewa during this biennium, bringing the total number of motor fuel agreements to 4 – 1) Standing Rock (1997), 2) Spirit Lake (2006), 3) Three Affiliated Tribes (2007), in addition to 4) Turtle Mountain Band of Chippewa (2010).

These agreements have resulted in the tribes receiving just under $9 million in motor fuels tax revenue since the first agreement was enacted with Standing Rock in 1997.

## Integrated Tax System

The Tax Department's Integrated Tax System (GenTax®) notable milestones that have been implemented internally over the biennium include:

- Oil and gas conversion
- Telecom Gross Receipts tax conversion
- Modernized e-file for Individual Income Tax and Corporate Income Tax
- ACH debits for motor fuels and alcohol tax payments

- ACH debits by phone (telepayments) for collectors
- Compliance process for alcohol taxes (comparison of manufacturer and wholesaler data)

## Canadian Refund Automation Project

The Tax Department is vigilant in pursuing opportunities to increase efficiencies and to reduce the paper forms entering the system. As a result, the Tax Department developed an online interactive system to replace the paper process Canadian residents use to request a refund of sales tax. The system allows Canadian residents to submit their sales tax refund claims online using a secure electronic form. The electronic refund system allows the Canadian purchaser to track the status of their claim and learn if an invoice is accepted or rejected. And, by using the online system, the Tax Commissioner's Office is able to quickly determine eligibility of the receipts.

For fiscal year 2010, the Tax Department processed 18,049 requests that included 241,896 receipts totalling $2,294,659.88 in refunds. During fiscal year 2011, those numbers increased to 23,782 requests processed containing 334,789 receipts for refunds totalling $3,248,625.91. This equates to a 32 percent increase in requests, 39 percent increase in the number of receipts attached to the requests, and an increase of 42 percent in the dollars refunded.

## Expanded E-File Services

For a number of years, the Tax Department has talked to taxpayers about the benefits of electronically filing tax returns. Taxpayers who use e-file have found it to be fast, safe, and convenient. And, e-file has proven to be the most accurate method of filing taxes.

During the biennium, the Tax Department created an online interactive tool to help individual taxpayers identify the best e-file solution for their needs, in many cases serving up a free service to the taxpayer.

For the 2011 tax filing season, over 75 percent of the individual income tax returns were filed electronically. This represents a growth of over 19 percent compared to the number of e-file returns received during 2010.

In January 2010 the Tax Department partnered with the IRS to offer Corporation, Partnership, and S-Corporation filers a web-based e-file system known as Modernized E-File (MeF). By using MeF, taxpayers are able to electronically file both their North Dakota and their federal return at the same time. In addition, all taxpayers also have the option to use electronic funds transfer (EFT) to make any necessary payments.

During the 2011 filing season, about 36 percent of those returns were filed using the MeF option, which equates to a 100 percent increase over the 2010 filing season.

All of the major tax types that the department administers can now be e-filed, representing over 90% of the returns that are filed with the agency.

## Additional New Customer Service Initiatives

- The Tax Department created a new form, Form ND-EZ, for use by individual income taxpayers who do not have tax deductions or credits. The form was used by 26,770 individual filers in 2010 and 24,419 individual filers during the 2011 filing season.
- With the new and expanded eligibility requirements for the Homestead Tax Credit and Renters Refund programs, the department marketed the programs through direct mail.
- The Tax Department also incorporated social media outreach through Facebook and RSS feeds.

  The RSS (Really Simple Syndication) is an easy way for web sites to share headlines and stories as well as notify interested individuals and media about changes and additions to our web site, such as news releases, new withholding tables, quarterly statistical reports, etc.

  Facebook provides the Tax Department with an avenue of reaching out to individuals quickly and efficiently. The department uses Facebook to alert individuals about changes and additions to our web site, such as news releases, new withholding tables, quarterly statistical reports, as well as to promote e-file and provide filing tips.

# Powers and Duties of the Tax Commissioner

1. Shall perform all the duties imposed by law.
2. Shall exercise general supervision over all assessors of general property or other taxes, township, county, and city boards of equalization, and all other assessing officers in the performance of their duties. All assessments of property shall be made relatively just and equal in compliance with the laws of this state.
3. Shall direct actions and prosecutions to enforce the laws, penalties and punishments of persons for failure to comply with the provisions of tax law. The Tax Commissioner shall cause complaints to be made against officers for neglect or refusal to comply with the law, and generally shall enforce all tax proceedings and revenue laws of the state in the proper court.
4. May require county state's attorneys to assist in the commencement and prosecution for the violation of any tax laws.
5. May require township, city, county and other public officers to report information regarding the assessment and collection of property and other taxes, receipts for taxes and other sources, the expenditure of public funds and other information in the administration of tax laws in a form that he/she may prescribe.
6. May summon witnesses to appear, give testimony, produce books, records, papers and documents relating to any matter which he/she or the State Board of Equalization may have authority to investigate or determine. The Tax Commissioner may cause depositions to be taken like depositions of witnesses are taken in civil actions in the district courts.
7. May require a reassessment of property in any county to be made in accordance with N.D.C.C. ch. 57-14 whenever deemed necessary, or may require county auditors to place on the assessment rolls property which may be discovered and which has not been taxed according to law.
8. Shall examine all cases where evasions or violations of the laws of assessments and taxation are alleged, complained of, or discovered, and shall ascertain if existing laws are defective or are administered improperly or negligently.
9. Shall submit to the Governor and the Secretary of State as prescribed by 54-06-04 the biennial report of the commissioner and the State Board of Equalization.
10. Shall visit other states and confer with taxing officials and attend tax or other economic conferences or conventions, in person or by his/her authorized agent.
11. Shall certify all levies, assessments, equalization, or valuations made by him/her or the State Board of Equalization, not more than thirty days after they have been made, or at periods otherwise provided by the law.
12. Shall have the power to execute reciprocal agreements with the appropriate officials of any other state. These agreements may waive all or any part of the tax requirements imposed by this state on gasoline or other fuels in the state of North Dakota, when the tax has been paid to the other state. The officials of the other state must grant the equivalent privileges with respect to gasoline or other fuels used in that state when the tax has been paid to the state of North Dakota.
13. May maintain an accounting system which includes a special category of accounts, designated as noncurrent accounts. The noncurrent accounts shall be the accounts which are uncollectible as a matter of law or those accounts where all reasonable collection efforts over a period of six years have produced no results. After examination by the State Auditor, and upon his/her recommendation for cause, specific accounts may be removed by the Commissioner from noncurrent status and all records pertaining to it destroyed.
14. May waive, upon a showing of good cause, any and all tax due. A lien must have been filed against the debtor's property and the Attorney General must approve the waiver. Further, a debtor's individual income tax liability may be reduced based upon a federal offer in compromise.
15. May allow a taxpayer to pay a tax liability to the state electronically no later than the date the payment is required by law to be made.
16. May participate in the treasury offset program administered by the United States Department of Treasury as prescribed by federal law and regulation. An amount equal to the amount of fees for participation in this program and any repayment of refunds erroneously received is appropriated as a standing and continuing appropriation to the Tax Commissioner for payment of fees due under this program and any required repayments.

*Specific duties assigned to the Office of State Tax Commissioner are set out in N.D.C.C. Title 57, and the general powers and duties in N.D.C.C. § 57-01-02.*

# The North Dakota Office of State Tax Commissioner

## Mission Statement

The mission of the Office of State Tax Commissioner is to fairly and effectively administer the tax laws of North Dakota.

## Vision Statement

The vision of the Office of State Tax Commissioner is to instill the highest degree of public confidence in our integrity and reliability by providing prompt, accurate and courteous service while promoting compliance with the tax laws of North Dakota.

## Guiding Principles

**We treat our customers as we would want to be treated.**
Customer service comes first. The public, other government officials and our coworkers are our customers. Conduct business in a courteous, dependable and professional manner. Anticipate the unexpressed needs of our customers.

**We extend cooperation and assistance to fellow public servants.**
Be consistent and accountable in our relationships with legislators, government officials and government personnel. Strive to earn respect for ourselves and elevate the public perception of all state employees.

**We uphold the Taxpayer Bill of Rights.**
Recognize the rights of taxpayers. Provide an equal and meaningful opportunity for taxpayers to be heard. Educate taxpayers on their responsibilities and rights under North Dakota tax law.

**We make wise and prudent use of all resources.**
Take seriously the responsibility the citizens of North Dakota have given us. Improve service through the effective use of technology and other resources.

**We recognize employees are our biggest asset.**
Encourage personal and professional growth. Recruit and select well-qualified employees based on high standards. Recognize the achievements of employees.

**We recognize each individual's contribution to the team.**
Explore and implement leadership styles that encourage teamwork. Foster a work climate which builds on team strengths while encouraging individual initiative. Acknowledge all coworkers as members of the same team.

**We value those with whom we work.**
Communicate with our coworkers in an open, honest and courteous manner. Respect our differences and consider the views of the entire staff.

# Functions and Responsibilities of The Office of State Tax Commissioner's Divisions

The Office of State Tax Commissioner is comprised six separate divisions. The Commissioner's Division is the administrative nucleus of the department. The Legal Division provides legal advice and counsel to the department and to the State Board of Equalization. The Fiscal Management Division performs accounting functions. The Operations Division is responsible for processing tax returns, mail processing, central records, procurement, as well as leading the department's technology efforts. The Tax Administration Division, and Property Tax Division administer different state taxes under the direction of the Tax Commissioner. The following summaries provide more detailed explanations of the functions and operations of the Office of State Tax Commissioner's divisions.

## Commissioner's Division

The Commissioner's Division has ultimate responsibility for the general administration of the department. It also serves as the department's primary research center, manages its personnel functions, and conducts studies as assigned by the commissioner on tax-related matters.

### Tax Commissioner

The Tax Commissioner is the chief administrator of the department and final arbiter of its policies. The commissioner serves on several administrative boards related to the Office of State Tax Commissioner.

As secretary to the State Board of Equalization, which certifies tax assessments for public utilities whose properties lie within several taxing districts, the commissioner is responsible for determining the tentative valuation of those properties. The commissioner also oversees regular studies of real estate assessments done by the Office of State Tax Commissioner, studies which the State Board of Equalization may use in equalizing property tax assessments between counties and taxing districts.

The Tax Commissioner is a voting member of the Multistate Tax Commission. This organization through the cooperation of its member states, enhances the ability of state revenue departments to enforce compliance with tax laws applying to multi-state businesses.

### Deputy Commissioner

The Deputy Commissioner assists the Commissioner in determining department administrative policy. The deputy supervises the development and implementation of effective personnel and fiscal management policies; facilitates management planning to determine current and future staffing needs; and serves as the division director for research and communication, and human resources. The deputy leads a department-wide effort to provide clear, concise and accurate information to all taxpayers through publications and news releases; serves as the commissioner's lead person in assuring good customer service; and is responsible for pursuing and implementing technology-related projects that enhance service and increase efficiency. The Deputy Commissioner also has an oversight responsibility for accounting, budgeting, training, and salary administration.

### Research and Communication Section

The Research and Communication Section includes staff from the previous Research and Statistics section, Communications section, and Income Tax section. The Research and Communication section serves as a liaison with the public, the media, the legislature, and other government agencies by providing information about the department's policies, programs, actions, services, and related tax matters.

The Research and Communication Section continues to be responsible for the preparation of revenue forecasts and other fiscal analyses. When requested by the Legislative Council, the section prepares estimates and projections of fiscal implications of all proposed tax legislation dealing with state revenues. The section also estimates the current and future fiscal impact of all administrative rulings proposed by the Tax Commissioner, maintains files of legislation affecting state tax revenue, and develops and maintains statistics on state tax. In addition, the Research and Communication Section prepares and publishes the biennial report of the Tax Commissioner, statistical reports, and comparative analyses of tax collections.

The Research and Communication section also researches various tax-related issues and special projects, serves on a number of advisory councils and committees as needed, produces the Department's forms and publications for the Office of State Tax Commissioner, and provides assistance with the management of the department's web site.

### Human Resources Section

Also within the Commissioner's Division is the Human Resources section. This section is responsible for the recruitment and selection of new employees for permanent positions within the Tax Department as well as for temporary positions during the tax processing season. The Human Resources section ensures compliance with federal and state employment regulations and laws, administers the department's wage and salary plan, ensures proper classifications of department positions, maintains employee records and complies with the confidentiality requirements of those records. The section also maintains current policies and procedures, provides guidance and information to employees and managers regarding human resource issues and policies and procedures, administers the Department's performance management program and serves as the Risk Management Coordinator.

During the 2009-2011 biennium the Commissioner's Division included nine full-time positions which include: the Tax Commissioner and Deputy Commissioner, a human resources officer, a research analyst, an auditor, a public information specialist, an administrative assistant, and two office assistants.

## Operations Division

The Operations Division is responsible for the Tax Department operational infrastructure, along with the acquisition of all goods, equipment, and services. In addition, the Operations Division includes four sections: Information Technology, Tax Registration, Taxpayer Services, and Tax Processing for the processing and final disposition of all tax-related data and documents.

The Operations Division Information Technology section is responsible for maintaining security for all federal data and documents; the operation and maintenance of all tax programs and processing automation such as the integrated tax system, e-file, scanning and automated data capture programs; and the Tax Department's web site.

The Tax Registration section is responsible for interpreting and enforcing statutes by determining permit and licensing requirements; as well as bond and bond amount requirements, filing frequency and managing taxpayer demographic information, which requires knowledge of all taxes administered by Tax Department.

The Taxpayer Services section is responsible for administration of tax rules and processing edits and business rule checks on tax returns across tax types; direct communication with taxpayers regarding missing or incorrectly reported information as well as providing taxpayer assistance and education, and developing understandable forms and instruction; correction to reported tax information resulting in refund or amount owed differences; and management of the work item inventory. This section ensures that tax data and information collected is accurate and complete prior to issuance of refunds or credit offsets to other agencies. The Taxpayer Services section analyzes and measures error conditions and provides the agency with solutions to repetitive problems.

The Tax Processing section is responsible for managing the processing of all tax returns; preparing and publishing vendor specifications for 1-D/2-D barcodes, substitute forms, and electronic filing; designing, testing, and approving forms and electronic filing submissions; and preparing documentation for vendors and maintaining a web site for the vendor community. Tax Processing also handles all mail opening, sorting, and slicing; validating, imaging, and processing; and printing, mailing, and storage of all tax documents.

In the 2009-2011 biennium, the Operations

Division included 39 full-time positions. Those positions include the director, one administrative assistant, one purchasing agent, seven information technology analysts, eight processing staff, four data entry staff, seven registration staff, eight taxpayer services staff and two vacant positions.

## Legal Division

The Legal Division provides legal advice and counsel to all divisions within the Office of State Tax Commissioner and the State Board of Equalization. The division's attorneys respond to inquiries from the Tax Commissioner, Tax Department staff, legislators, state and local officials, and citizens and prepare opinions on tax questions. They also review and draft department administrative rules under the provisions of the Administrative Agencies Practice Act, coordinate the approval of those rules by the Attorney General, and file them with the Legislative Council.

During each North Dakota legislative session, the Legal Division develops and drafts bills for the Tax Commissioner to be presented to the Legislature and participates in the legislative hearing process. At the end of the legislative session, the division's attorneys interpret new or amended laws to aid the department in implementing those laws, and assist the Tax Commissioner in issuing rules, regulations or policies regarding them.

The Legal Division conducts formal hearings before the Tax Commissioner or his/her designated representative and represents the Office of State Tax Commissioner and the State Board of Equalization in litigation brought by or against either the department or the board.

During the 2009-2011 biennium the Legal Division included five full-time positions: two attorneys, one paralegal, one collection officer, and one legal assistant.

## Fiscal Management Division

The Fiscal Management Division is the Department's center for business transactions. This division directs and monitors the agency accounting and financial reporting systems. The Division prepares and maintains the accounting records of total revenue received, expenditures for payroll and accounts payable, and tax refunds. It maintains the Department's fixed asset inventory records, determines the level of insurance coverage for fixed assets, and prepares the leases for office space and equipment.

The Fiscal Management Division prepares the Department's executive budget request and monitors it through the legislative process. The division also assists with biennial revenue estimates. In addition, the Fiscal Management division prepares the Department's internal budget, analyzes and forecasts expenditures, monitors and reports on budget performance, and prepares reports and financial statements for management information and auditing purposes. The division monitors proposed legislation and establishes policies and procedures for implementation.

The Fiscal Management Division establishes and implements accounting policies and procedures to ensure compliance with OMB policies and guidelines, generally accepted accounting principles, and governmental accounting standards. In addition, the division assists other divisions in establishing and monitoring appropriate risk management and internal control. All records maintained by the Department are subject to state audit. The division coordinates the annual audits conducted by the State Auditor's Office and the periodic banking audits conducted by the Bank of North Dakota.

During the 2009-2011 biennium, the Fiscal Management Division included six full-time positions: four account technicians, one Accounting/Budget Specialist, and one Accounting Manager/Chief Fiscal Officer.

## Tax Administration Division

The Tax Administration Division consists of six sections: Corporate Income Tax; Individual Income and Withholding Taxes; Sales & Special Taxes Compliance; Sales & Special Taxes Audit; Motor Fuels, Oil & Gas, and Estate Taxes; and Collections.

These sections maximize taxpayer compliance with North Dakota tax laws, assist in return processing, perform audits, and collect delinquent taxes. They use various investigative means to identify non-filers, investigate reasons for not filing, enforce filing requirements, and employ a variety of collection methods to collect past due taxes. The division publicizes tax rules and regulations, issues administrative rulings, recommends tax law changes, designs and revises tax forms and instructions, and monitors litigation.

There is continued emphasis on providing taxpayer assistance over the telephone, in person over-the-counter, and through correspondence. The Division provides speakers for tax clinics, tax preparation and other educational workshops.

## Corporate Income Tax

The Corporate Income Tax section administers the state's income tax imposed on corporations doing business in this state. This section also administers the tax on financial institutions, with a portion of this tax going directly to the counties.

This section's primary emphasis involves conducting office and field audit reviews. In order to provide as much audit coverage as possible, the Corporate Income Tax section relies, in part, on the Multistate Tax Commission's cooperative program to perform field audits on the state's behalf. Additionally, the section investigates data from various sources to identify entities that have failed to report and remit taxes due.

## Individual Income Tax and Withholding

The Individual Income Tax and Withholding section administers the state's income tax law for individuals, estates and trusts, partnerships, and small businesses. The section is also responsible for obtaining compliance from all employers responsible for withholding income tax from employees. The section conducts audit reviews of taxpayers' returns and requests for refunds, as well as investigates data from various sources to identify individuals and entities that have failed to report and remit taxes due. In addition, the section provides taxpayer assistance along with newsletters, guidelines, rules and regulations.

## Sales and Special Taxes Compliance

The principal function of the Sales and Special Taxes Compliance section is to administer state and local sales taxes, city lodging, restaurant, and motor vehicle rental taxes, music and composition tax, cigarette and tobacco taxes, alcohol taxes, and provider assessment for intermediate care.

Responsibilities of this section are to assure returns for the various tax types are filed timely and accurately; administer exemption applications and compliance programs; process amended returns and refund requests; issue licenses to wholesale businesses selling alcoholic beverages; issue administrative tax rulings, provide newsletters, guidelines, rules and regulations; and provide taxpayer assistance. The section investigates data from various sources and implements projects to identify entities that have failed to report and remit taxes due. Projects and processes include field visitation, special events project, nexus and discovery project, voluntary disclosure program, and Canadian customs review project.

## Sales and Special Taxes Audit

The primary focus is on customer service and the reduction of protested audits. The Sales and Special Taxes Audit section conducts field and office audits of sales and use taxes, local lodging, restaurant and motor vehicle rental taxes, fuel taxes, cigarette and tobacco taxes, and wholesale alcohol beverage taxes. The section also utilizes the Multistate Tax Commission's cooperative program to perform field audits on the state's behalf.

Audit surveys are requested from taxpayers after a field audit is completed to obtain feedback on our performance and help improve our service. Completed surveys continue to reflect professionalism, accurate work product and quality taxpayer service. In addition to audit work, the section participates in special projects, assists in taxpayer education and compliance functions.

## Motor Fuels, Oil & Gas, and Estate Taxes

This section administers three groups of taxes: motor fuel taxes, which consist of motor vehicle fuel, special fuel, and aviation fuel taxes; oil and gas taxes, which consist of oil and gas gross production tax and oil extraction tax; and estate tax.

### *Motor Fuels*

In the motor fuels area, the section issues fuel licenses, assures that tax returns are filed timely and accurately, assists in fuel tax audits, provides newsletters, guidelines, rules and regulations, and provides taxpayer assistance. The section also processes refunds submitted by railroad, agricultural, and industrial consumers that use fuel in unlicensed equipment for off-road purposes.

### *Oil and Gas*

In the oil and gas tax area, the section's main responsibilities are to assure that all tax returns received are timely and accurate; provide newsletters, guidelines, rules and regulations; and perform compliance reviews and audits of oil and gas companies conducting business in the state.

### *Estate Tax*

North Dakota's estate tax is entirely contingent on credits from the federal estate tax allowed by federal law. The section verifies that the federal credit is computed correctly on each estate tax return, maintains estate tax records, and informs the public about estate tax laws, policies and procedures. Federal law eliminated estate tax credits for estates created after December 31, 2004.

## Collections

The Collections section is responsible for collecting delinquent taxes for all tax types administered by the Tax Commissioner. Established collection procedures include telephone and written communication with taxpayers and the mailing of notices requesting payment of taxes.

If necessary, this section may resort to civil or criminal legal action. It is the policy of the Collections section to initiate legal action only in those cases where the taxpayer fails to respond to collection attempts. Taxpayers are always given ample notice and opportunity to comply with requests for payment of taxes.

In the 2009-2011 biennium, the Tax Administration Division included 67 full-time positions. Those positions are the director, one associate director, one administrative assistant, forty-three auditors, six audit technicians, seven collections officers, five compliance officers, and three office assistants.

## Property Taxes Division

Property tax is an important source of local revenue for financing school districts and county, city and township government. While local government units have the responsibility of assessing and taxing all classes of real property, the Office of State Tax Commissioner provides assistance to local government units to assure that the property tax is administered equitably throughout the state.

The Property Tax Division, under the direction of the State Supervisor of Assessments, works with local government to maintain equalization of property assessments among the various counties in North Dakota. To assure property tax equalization, the division performs annual ratio studies, which compare true and full value of real estate with the sale price of properties which have been sold. If significant assessment variations exist among counties, the State Board of Equalization takes steps to equalize those assessments. In addition, personnel from the division investigate individual assessments for the board and make detailed appraisals of complex properties when the owners of those properties have appeared before the State Board of Equalization requesting a review.

The Homestead Credit and Renter Refund Program is also administered by the Property Tax Division. Under this state-funded program, qualifying senior citizens and disabled persons receive a reduction of their property tax assessment or a partial refund of annual rent paid. The total amount of revenue lost to the local taxing districts by this reduction is reimbursed to them from the state general fund. Credits are allowed not only against real property tax assessments but against special assessments as well. Credits allowed for special assessments become a lien on the property. The division has the responsibility for monitoring the liens and for providing a release whenever the liens are satisfied.

The Property Tax Credit for Disabled Veterans was funded by the 2009 Legislature to replace the disabled veterans' property tax exemption. This is a state-funded program that provides a property tax credit for the homestead of a disabled veteran with at least 50 percent service-connected disability. The credit is calculated by multiplying the taxable value of fixtures, buildings, and improvements of the homestead by the disabled veteran's certified service-connected disability percentage, to a maximum credit of $5,400. The Property Tax Division administers the Property Tax Credit for Disabled Veterans.

Assisting the Tax Commissioner and the State Board of Equalization in making valuations of utility property for property tax purposes is the Utilities Tax Section. Most real property is assessed by local government. However, the property of railroads, airlines, public utilities such as electric and gas companies, and pipeline companies is assessed at the state level. The Tax Commissioner, utilizing appraisals by the Utilities Tax Section, makes tentative valuations and the State Board of Equalization sets the final assessed valuations. The section then certifies to each county the value placed on the railroad, utility, and pipeline property located within that county, and the tax is administered and collected by the local governments. The Utilities Tax Section collects the air transportation company tax and certifies the amounts to be distributed to the cities or municipal airport authorities where the air transportation companies made regularly scheduled landings.

The State Supervisor of Assessments has the statutory responsibility to certify that assessors and county directors of tax equalization have met minimum requirements. The certification process is administered by the Property Tax Division. The division also conducts seminars for local government officials to improve administration of property tax and holds property tax appraisal schools for assessors and other local tax officials. Staff interprets tax statutes, reviews and analyzes legal questions, and provides information concerning changes in law or policy affecting property taxation. The division acts as the liaison between local property tax administrators and state officials. While it does not directly administer property tax, the division functions as a statistical and information resource center and facilitates communications among all levels of government to maintain efficiency, promote uniformity and achieve equalization within the property tax system. Statutes concerning budgetary control of local taxing districts require the Property Tax Division to develop maximum levy worksheets for use by the county auditors in determining the total dollar levy allowed each taxing district. Workshops conducted by division personnel provide county auditors with firsthand knowledge of the procedures that they must use.

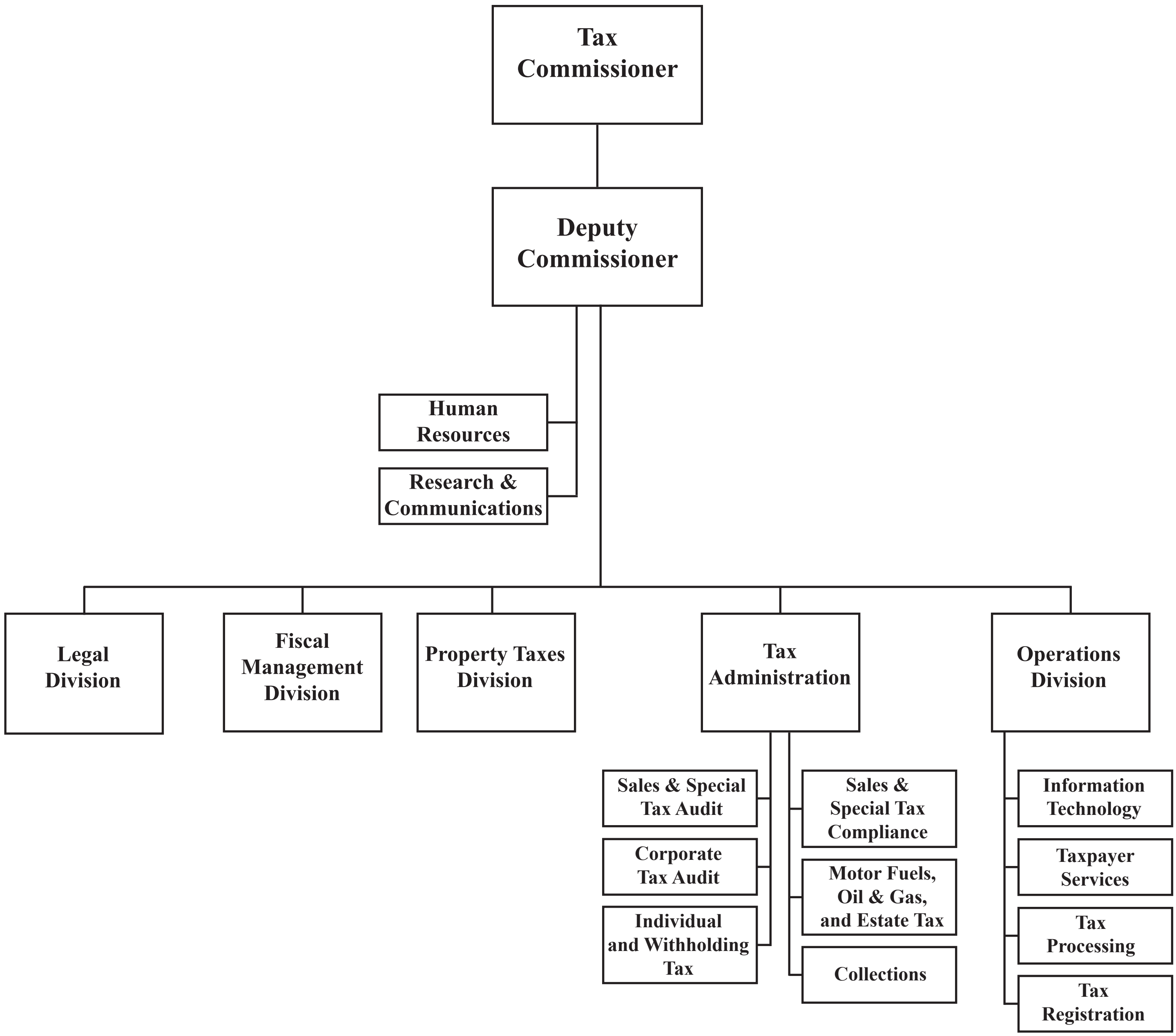
The Utilities Tax Section calculates and collects electric generation, distribution, and transmission taxes. The State Treasurer distributes those taxes to the political subdivisions.

Another responsibility of the Utilities Tax Section is administering the state severance tax on coal, the coal conversion privilege tax on electrical generating plants, coal gasification plants, and coal beneficiation plants. The section audits reports of collections of these energy-related taxes. The Utilities Tax Section also prepares reports on the collection of these taxes and information for revenue distribution by the State Treasurer's Office, which is responsible for allocating revenue from these taxes among the state, the counties where the mines and plants are located, and a permanent Coal Development Trust Fund.

The Property Tax Division annually certifies to county directors of tax equalization in each of the state's 53 counties the average true and full agricultural value of farmland, as determined by North Dakota State University. It is this value on which the counties base their assessments of agricultural property.

The staff of the Property Tax Division in the 2009-2011 biennium included six full-time positions: the state supervisor of assessments, three property tax specialists, one audit technician, and one office assistant.

# Office of State Tax Commissioner Organizational Chart June 2011



# Future Directions

Legislation enacted during the 2011 Legislative Assembly impacts the administration of some of North Dakota's major taxes during the 2011-2013 biennium and in the years beyond. The following summarizes significant tax legislation enacted by the 2011 Legislature.

## Broad-Based Property Tax Relief:

- The 2011 Legislature extended and amended the property tax relief program to correct an unintentional omission and increased funding for the 2011-13 biennium to $341,790,000.

## Across-the-Board Income Tax Relief:

- The 2011 Legislature again reduced the individual income tax rates, starting with tax year 2011. The rates were reduced 17.9 percent in all tax brackets. Additionally, the 2011 Legislature reduced corporation income tax rates 19.5 percent across-the-board. Financial institutions tax rate was reduced by seven percent. Coupled with the property tax relief (see above) the overall tax relief enacted by the 2011 Legislature and signed into law by the Governor reduced the tax burdens on North Dakota residents and businesses by a record $489 million for the 2011-13 biennium.

## Sales Taxes:

- Retailer compensation provided to sales tax permit holders for collecting sales tax and filing returns has been expanded. Effective for tax periods beginning January 1, 2012, all sales and use tax permit holders will receive 1½ percent compensation up to $93.75 on each return.

- Nonprofit social and recreation clubs will be exempt from collecting sales tax on memberships, admissions, and entrance fees if the organization has no paid employees.

- Sales of agrichemical tank cleaners and foam markers used in the spraying of agricultural crops will be exempt from sales tax.

- Purchases of equipment by licensed special fuel dealers used to sell green diesel will be exempt from sales tax.

- The gross receipts from coin-operated amusement machines will be exempt from all state and local sales taxes.

- The current sales tax exemption for sales when the net proceeds of the sales are used for an educational, religious, or charitable purpose has been expanded. The first $10,000 of fund raising sales made by a seller in a publicly owned facility will be exempt from tax.

- Purchases of machinery and equipment used to produce coal from a new coal mine will be exempt from sales and use tax.

## Income Taxes:

- The Angel Fund investment income tax credit was augmented and expanded.

- A potential new deduction for married persons filing jointly was enacted providing for state tax relief if Congress should allow a marriage penalty prohibition to expire.

- A new three-year income tax credit was enacted for purchasing new or used machinery and equipment for the purpose of automating a manufacturing process owned and operated as a primary sector business certified by the Department of Commerce.

- A new income tax credit is allowed to an individual who makes a charitable contribution of cash or property to a qualified endowment fund in North Dakota.

- The 2011 Legislative Session adopted key provisions based on the Model Mobile Workforce Statute developed by the Multistate Tax Commission. The model statute was crafted as an alternative to federal legislation introduced in recent sessions of Congress that would preempt states from taxing the income of nonresident individuals working within their borders on a limited basis. The legislation provides state tax relief to certain nonresident individuals and their employers.

- A new income tax credit is allowed for contributions to a new housing incentive fund to be administered by the North Dakota Housing Finance Agency. The purpose of the fund is to provide assistance to public and private projects that address unmet housing needs in the state. The new credit was expanded by the 2011 Special Legislative Session in November, 2011.

## Property Tax:

- The 2011 Legislature continued the broad-based property tax relief enacted by the 2009 Legislature.

- The 2011 Legislature enacted Senate Bill 2294, relating to assessment of property, powers and duties of the state supervisor of assessments, listing of individual property records, duties of the State Board of Equalization, and duties of assessors.

- The 2011 Legislature enacted House Bill 1194, which requires public hearings on proposed property tax increases.

## Oil taxes:

- An oil production incentive was extended that provides for a reduced oil extraction tax rate of two percent for production from a horizontal well drilled and completed during the incentive period. The incentive "triggers on" when the average oil price is below $55 and "triggers off" when the average oil price is above $70.

- The 2011 Legislature changed the distribution formula for oil and gas tax revenues. The formula change removes the city 'caps,' repeals the statutory permanent oil tax trust fund, and increases the amount of revenue distributed through the impact grant fund. It also creates new funds which will receive a portion of the state's share of oil and gas tax revenue. These funds are dedicated to disaster relief and property tax relief sustainability.

# Comparative Statement of Collections for the 2007-2009 Biennium and the 2009-2011 Biennium

| | 2007-2009 | 2009-2011 | Increase or Decrease | |
|---|---|---|---|---|
| Tax Type | Biennium | Biennium | Dollars | Percent |
| Sales and Use Taxes | $1,137,453,934 | $1,377,610,400 | $240,156,466 | 21.11% |
| Individual Income Tax | 687,024,815 | 734,101,294 | 47,076,479 | 6.85% |
| Corporation Income Tax | 239,695,937 | 234,364,296 | (5,331,641) | -2.22% |
| Oil and Gas Taxes | 799,100,341 | 1,560,544,041 | 761,443,700 | 95.29% |
| Coal Taxes | 80,687,210 | 72,033,506 | (8,653,704) | -10.73% |
| Motor Fuels Taxes | 288,504,452 | 323,201,313 | 34,696,861 | 12.03% |
| All Other Taxes and Fees | 343,713,670 | 405,033,561 | 61,319,891 | 17.84% |
| Total Net Collections | $3,576,180,359 | $4,706,888,411 | $1,130,708,052 | 31.62% |

**Sales and Use Taxes:** The growth in this category is due to overall increases in taxable sales and purchases. Most industry sectors experienced growth despite the national recession. North Dakota's sales growth points to a strong, growing energy sector and an increasingly diverse economy.

**Individual Income Tax:** The growth in this category reflects the strength of the overall economy including strong employment gains as well as increases in wages and salaries. Royalty payments to mineral owners also contributed to growth in this sector. Tax rates were reduced by 12% beginning with tax year 2009 and an additional 18% beginning with tax year 2011. Despite the rate reductions, biennial revenues increased nearly 7% over the previous biennium.

**Oil and Gas Taxes:** The growth in this category is due to the high world oil prices and robust growth in the state's oil production, primarily in the Bakken formation.

**All Other Taxes and Fees:** The growth in this category is due primarily to increased city sales tax, transmission line tax, and telecommunications tax collections.

# Statement of Collections
## 2009 - 2011 Biennium

| Description | Fiscal Year 2010 | | | Fiscal Year 2011 | | | |
|---|---|---|---|---|---|---|---|
| | Gross Collections | Refunds | Net Collections | Gross Collections | Refunds | Net Collections | 2009-11 Biennium Net Total |
| Sales & Use Tax | $614,352,001.51 | $11,812,481.63 | $602,539,519.88 | $791,444,848.01 | $16,373,968.35 | $775,070,879.66 | $1,377,610,399.54 |
| Motor Vehicle Excise Tax (1) | 107,401.61 | 744.13 | 106,657.48 | 287,606.14 | 111.00 | 287,495.14 | 394,152.62 |
| City Occupancy Tax | 1,883,389.57 | 11,021.28 | 1,872,368.29 | 2,448,371.57 | 4,892.23 | 2,443,479.34 | 4,315,847.63 |
| City Sales Tax | 119,411,810.30 | | 119,411,810.30 | 144,237,941.79 | | 144,237,941.79 | 263,649,752.09 |
| City Restaurant and Lodging Tax | 4,289,398.83 | | 4,289,398.83 | 4,651,722.47 | | 4,651,722.47 | 8,941,121.30 |
| City Motor Vehicle Rental Tax | 110,556.92 | | 110,556.92 | 127,952.09 | | 127,952.09 | 238,509.01 |
| Individual Income Tax | 391,749,926.22 | 87,497,002.38 * | 304,252,923.84 | 500,848,370.55 | 71,000,000.00 * | 429,848,370.55 | 734,101,294.39 |
| Corporate Income Tax | 105,874,592.38 | 18,000,000.00 * | 87,874,592.38 | 160,489,793.85 | 14,000,000.00 | 146,489,703.85 | 234,364,296.23 |
| Financial Institutions Tax | 11,607,468.55 | 1,156,150.00 | 10,451,318.55 | 12,368,428.12 | 444,665.00 | 11,923,763.12 | 22,375,081.67 |
| Cigarette Tax (Cities) | 1,353,441.68 | | 1,353,441.68 | 1,400,356.97 | | 1,400,356.97 | 2,753,798.65 |
| Cigarette Tax (Tribe) | 64,692.59 | | 64,692.59 | 63,023.58 | | 63,023.58 | 127,716.17 |
| Cigarette Tax (GF) | 18,521,268.33 | 66,913.12 | 18,454,355.21 | 19,161,818.65 | 87,802.82 | 19,074,015.83 | 37,528,371.04 |
| Tobacco Tax | 3,988,573.06 | 12,175.48 | 3,976,397.58 | 4,746,866.29 | 8,713.34 | 4,738,152.95 | 8,714,550.53 |
| Oil & Gas Gross Production Tax | 302,099,211.20 | | 302,099,211.20 | 481,083,657.87 | | 481,083,657.87 | 783,182,869.07 |
| Oil Extraction Tax | 288,938,836.02 | 8,327,399.16 | 280,611,436.86 | 505,597,483.66 | 8,847,748.71 | 496,749,734.95 | 777,361,171.81 |
| Telecommunications Tax | 11,252,316.31 | | 11,252,316.31 | 11,931,265.32 | 1,483.66 | 11,929,781.66 | 23,182,097.97 |
| Wholesale Liquor/beer Tax | 7,424,180.78 | 12,758.70 | 7,411,422.08 | 7,847,102.02 | 2,484.40 | 7,844,617.62 | 15,256,039.70 |
| Estate Tax | 9,173.85 | | 9,173.85 | 0.00 | | 0.00 | 9,173.85 |
| Miscellaneous Remittances | 13,019.06 | | 13,019.06 | 8,032.51 | | 8,032.51 | 21,051.57 |
| Coal Severance Tax | 11,506,450.67 | | 11,506,450.67 | 11,254,271.09 | | 11,254,271.09 | 22,760,721.76 |
| Coal Conversion Tax | 26,154,149.83 | | 26,154,149.83 | 23,118,634.29 | | 23,118,634.29 | 49,272,784.12 |
| Transmission Line Tax | 442,604.25 | | 442,604.25 | 7,093,167.06 | | 7,093,167.065 | 7,535,771.31 |
| Music and Composition Tax | 155,922.63 | | 155,922.63 | 143,773.62 | | 143,773.62 | 299,696.25 |
| Sales & Use Tax Cash Bonds | 116,073.40 | 65,023.40 | 51,050.00 | 383,270.59 | 21,020.59 | 362,250.00 | 413,000.00 |
| Fuel Dealers & Inspection Fees | 0.00 | | 0.00 | 0.00 | | 0.00 | 0.00 |
| Motor Vehicle Fuel Tax | 86,931,818.23 | 1,752,000.00 * | 85,179,818.23 | 90,796,808.52 | 1,160,990.00 * | 89,635,818.52 | 174,815,636.75 |
| Special Fuel Tax | 67,091,655.95 | 538,000.00 * | 66,553,655.95 | 82,215,020.05 | 383,000.00 * | 81,832,020.05 | 148,385,676.00 |
| Motor Fuel Tax - Cash Bond | 5,500.00 | 7,500.00 | (2,000.00) | 159,500.00 | | 159,500.00 | 157,500.00 |
| Non-game Wildlife Fund | 19,443.98 | | 19,443.98 | 18,328.63 | | 18,328.63 | 37,772.61 |
| Centennial Tree Trust Fund | 20,374.55 | | 20,374.55 | 19,003.69 | | 19,003.69 | 39,378.24 |
| Organ Transplant Support Fund | 11,949.57 | | 11,949.57 | 14,197.06 | | 14,197.06 | 26,146.63 |
| Airline Tax | 202,398.98 | | 202,398.98 | 212,110.18 | | 212,110.18 | 414,509.16 |
| Provider Assessment | 4,094,197.00 | | 4,094,197.00 | 4,508,026.13 | | 4,508,026.13 | 8,602,223.13 |
| **TOTAL COLLECTIONS** | $2,079,803,797.81 | $129,259,169.28 | $1,950,544,628.53 | $2,868,680,662.37 | $112,336,880.10 | $2,756,343,782.27 | $4,706,888,410.80 |

* Represents amounts transferred to refund reserve accounts - not actual refunds.

(1) Additional Motor Vehicle Excise Tax was collected by the ND Department of Transportation. Amounts collected by DOT were $80,466,118.11 in FY 10 and $99,805,027.98 in FY 11.

# Net Collections
# For Fiscal Years Ended June 30, 2002 to 2011

| TAX TYPE | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|---|---|---|---|---|---|---|---|---|---|---|
| Sales and Use Taxes (1) | $335,727,423 (2) | $360,908,220 (2) | $368,703,306 (2) | $411,791,675 (2) | $429,031,992 (2) | $486,141,621 (2) | $530,428,326 (2) | $607,340,013 (2) | $602,646,177 (2) | $868,286,676 (2) |
| Individual Income Tax | 198,922,525 | 200,528,205 | 214,145,899 | 241,319,731 | 274,621,741 | 318,433,494 | 308,889,352 | 378,135,463 | 304,252,924 | 429,848,371 |
| Corporation Income Tax | 41,600,758 | 46,027,577 | 40,257,083 | 62,669,889 | 111,789,587 | 119,955,749 | 140,737,698 | 98,958,239 | 87,874,592 | 146,489,704 |
| Oil Extraction Tax | 17,068,846 | 22,618,069 | 25,638,914 | 45,566,628 | 61,767,934 | 67,187,829 | 182,366,018 | 185,814,920 | 280,611,437 | 496,749,735 |
| Gross Production Tax | 36,515,072 | 43,477,533 | 47,519,075 | 74,046,219 | 104,378,689 | 118,782,343 | 209,457,069 | 221,462,334 | 302,099,211 | 481,083,658 |
| Coal Taxes (3) | 38,200,783 | 39,448,602 | 40,556,785 | 37,723,016 | 39,799,251 | 40,900,014 | 39,047,086 | 41,640,124 | 37,660,601 | 34,372,905 |
| Motor Fuel Taxes (4) | 111,635,118 | 115,252,746 | 119,934,491 | 122,239,373 | 134,124,474 | 139,970,254 | 144,001,968 | 144,502,484 | 151,733,474 | 171,467,839 |
| All Other Taxes & Fees (5) | 121,457,316 | 131,232,956 | 124,855,264 | 135,508,194 | 147,982,117 | 158,545,771 | 165,700,036 | 177,699,228 | 183,666,212 | 128,044,894 |
| **TOTAL NET COLLECTIONS** | **$901,127,841** | **$959,493,908** | **$981,610,817** | **$1,130,864,726** | **$1,303,495,785** | **$1,449,917,075** | **$1,720,627,554** | **$1,855,552,805** | **$1,950,544,629** | **$2,756,343,782** |

(1) Includes sales and use tax, motor vehicle excise tax.

(2) The Department of Transportation collects the majority of the motor vehicle excise taxes. These collections are not included in the amounts listed here. DOT collections of motor vehicle excise tax totaled $65,827,141 in FY 02, $63,947,770 in FY 03, $69,737,893 in FY 04, $68,784,172 in FY 05, $66,533,250 in FY 06, $69,840,023 in FY 07, $80,654,289 in FY 08, $76,219,312 in FY 09, $80,466,118 in FY 10, and $99,805,028 in FY 11.

(3) Includes coal severance tax and coal conversion facilities privilege tax.

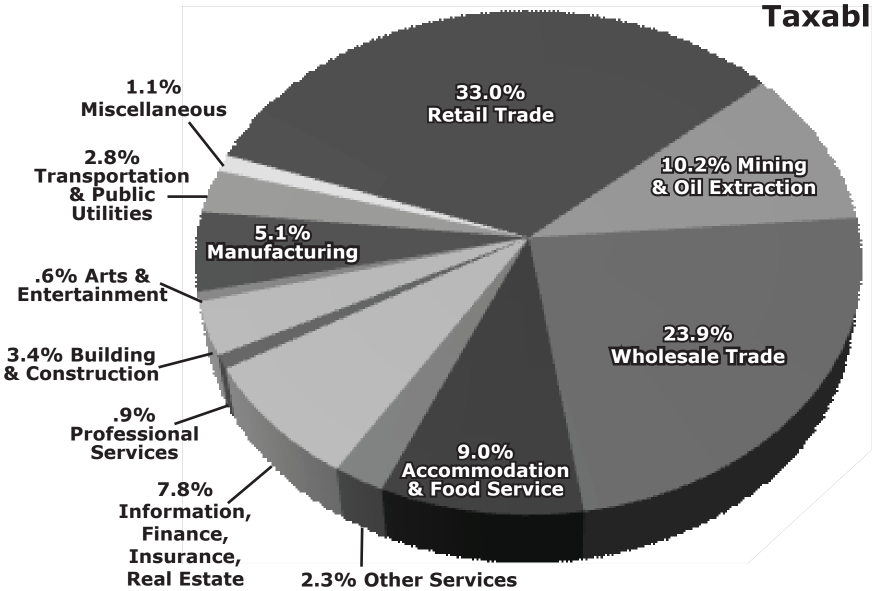
(4) Includes motor vehicle fuel and special fuel taxes.

(5) Includes cigarette tax, tobacco tax, estate tax, financial institutions tax, transmission lines tax, city sales tax, city lodging tax, music and composition tax, sales and use tax and motor fuel tax cash bonds, motor fuel license fees, non-game wildlife contributions, centennial trees contributions, organ transplant support contributions, city restaurant and lodging, miscellaneous remittances, provider assessment, telecommunications tax, wholesale liquor tax, airline tax, and city motor vehicle rental tax.

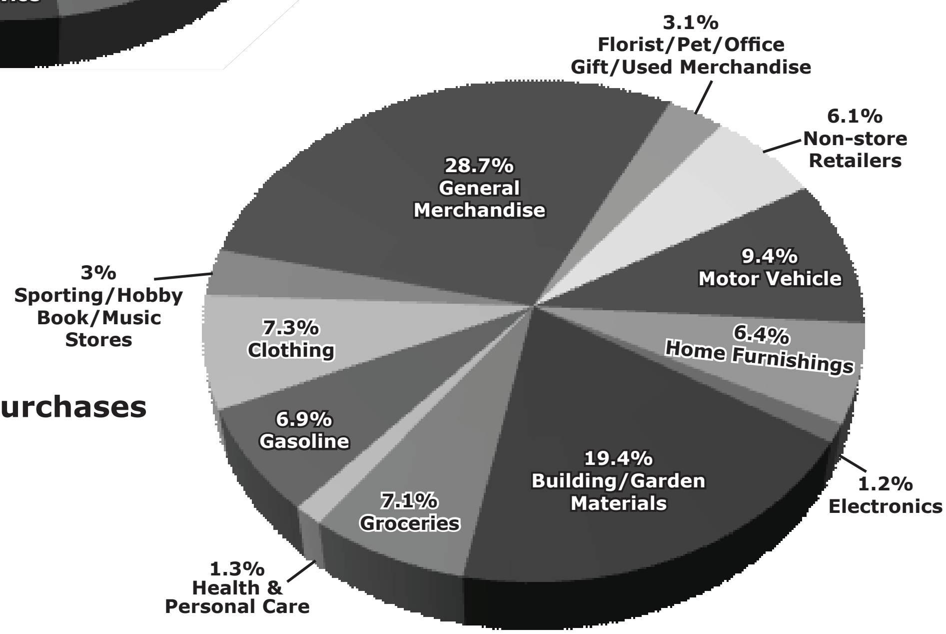
SOURCE: Comparative Statement of Collections, Office of State Tax Commissioner.

# Taxable Sales and Taxable Purchases in the 2009-2011 Biennium

**Taxable Sales and Taxable Purchases Breakdown by Major Business Sectors**




**Taxable Sales and Taxable Purchases Breakdown of Retail Trade Sector**



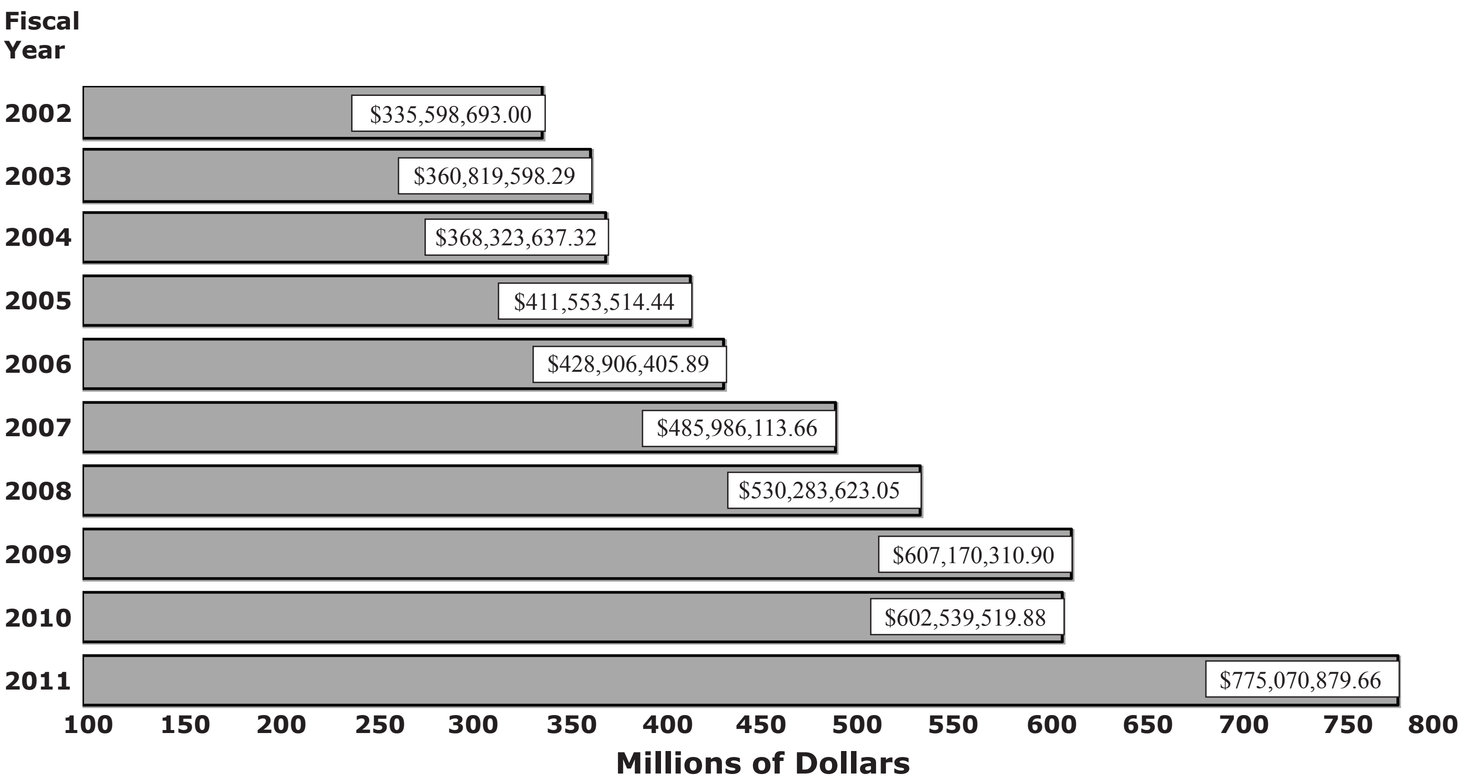

SOURCE: North Dakota Sales and Use Tax Quarterly Statistical Reports

The sales tax is levied upon the gross receipts from retail sales of tangible personal property; furnishings or service of steam, gas and communication services; recreation and amusement receipts; magazines and periodicals; leasing or renting of hotel, motel or tourist court accommodations; leasing or renting of tangible personal property

The use tax is imposed upon any tangible personal property purchased at retail for storage, use, or consumption in this state and not subject to the North Dakota sales tax, unless otherwise exempt by law. Generally this tax applies on purchases of tangible personal property at retail outside North Dakota for use in this state when such purchases are made from a retailer who does not collect a sales and use tax. Many purchases made over the Internet are subject to the use tax. Under these circumstances, the purchaser must remit the tax directly to the Office of State Tax Commissioner.

Sales Tax permit holders are categorized through the use of the North American Industrial Classification System, generally referred to as "NAICS" codes. The NAICS system is used by government and business throughout the United States to facilitate record keeping and the compilation of statistics regarding business and industry.

# Sales and Use Tax Collections During Fiscal Years Ended June 30, 2002 to 2011




## Distribution of Sales Tax Collections

| | Total Revenues | State General Fund | State Aid Distribution Fund |
|---|---|---|---|
| Fiscal Year 2002 | 335,598,693.00 | 308,750,797.56 | 26,847,895.44 |
| Fiscal Year 2003 | 360,819,598.29 | 331,954,030.38 | 28,865,567.91 |
| Fiscal Year 2004 | 368,323,637.32 | 338,942,963.00 | 29,380,674.32 |
| Fiscal Year 2005 | 411,553,514.44 | 378,815,329.96 | 32,738,184.48 |
| Fiscal Year 2006 | 428,906,405.89 | 394,697,753.30 | 34,208,652.59 |
| Fiscal Year 2007 | 485,986,113.66 | 447,233,112.63 | 38,753,001.03 |
| Fiscal Year 2008 | 530,283,623.05 | 487,878,782.95 | 42,404,840.10 |
| Fiscal Year 2009 | 607,170,130.90 | 558,606,900.84 | 48,563,410.06 |
| Fiscal Year 2010 | 602,539,519.88 | 554,253,325.86 | 48,286,194.02 |
| Fiscal Year 2011 | 775,070,879.66 | 712,958,004.76 | 62,112,874.90 |

# Sales and Use Tax

Generally, the North Dakota sales and use tax is imposed on the gross receipts of retailers. The tax is paid by the purchaser and collected by the retailer. Currently, the sales and use tax rates are as follows:

- The general rate is 5%.
- The rate on retail sale of alcoholic beverages is 7%.
- The rate on new farm machinery is 3%.
- The rate on new mobile homes is 3%.

A brief history of changes to the sales tax base and rates follows:

Effective July 1, 1991, manufacturing or processing machinery and equipment used by new or expanding manufacturers or agricultural producers was exempted from the sales tax. Additionally, an exemption was created for production equipment in new, large lignite-burning power plants and for other tangible personal property used in construction of the power plant.

Effective January 1, 1993, the sales tax rate for natural gas was reduced from 5% to 4%, and was further reduced in 1% increments becoming 2% effective January 1, 1995.

Effective July 1, 1993, the exemption for manufacturing machinery and equipment was broadened to include recycling machinery and equipment. The definition of what equipment qualifies for the manufacturing exemption was further broadened in a July 1994 special session to include all equipment utilized until final transportation from the site, and to include research and development equipment.

Effective July 1, 1995, the sale of recapping and retreading services for tires became subject to the sales tax.

Effective July 1, 1997, the exemption for purchases made by an out-of-state political subdivision was modified to include only those that exempt purchases made by a North Dakota political subdivision.

Effective May 1, 1999, the sales tax rate on used farm equipment and farm repair parts was decreased from 3% to 1.5%.

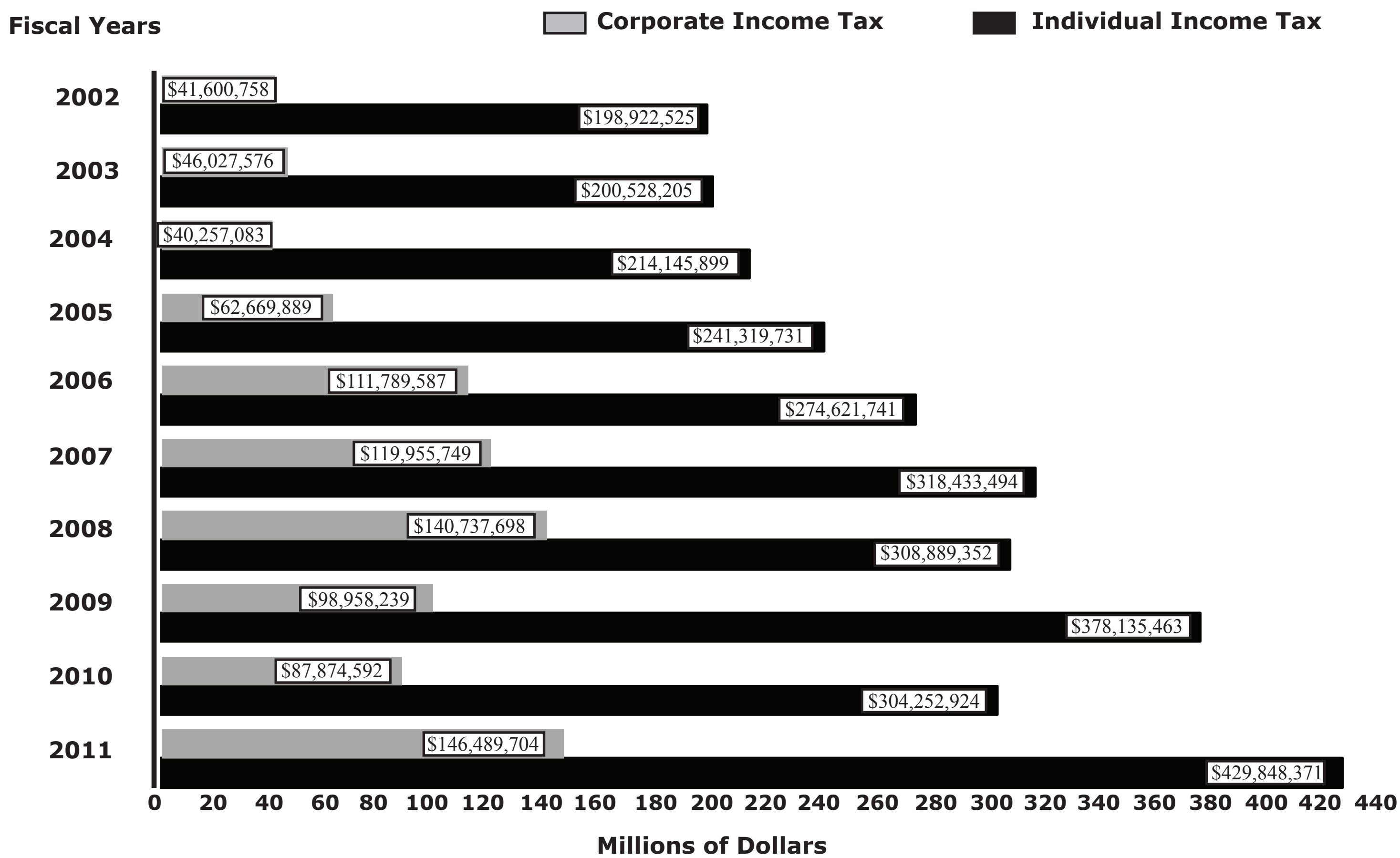
Effective July 1, 2002, used farm equipment and farm repair parts became exempt from sales tax.

Effective July 1, 2003, the sales tax rate was increased to 6% for hotel and motel rooms. The receipts from this additional 1% was to assist with the promotion of the various Lewis and Clark Bicentennial events being held throughout the state. This tax expired June 30, 2007.

Effective July 1, 2005, the State enacted and adopted the national Streamlined Sales Tax Project.

Effective July 1, 2009, the sale of natural gas became exempt from sales tax. A sales tax exemption was also enacted for irrigation system repair parts, and for property used to compress, process, gather, or refine gas produced from an oil or gas well in the state. Purchases of tangible personal property used to construct or expand a telecommunications service infrastructure in the state was exempted from sales and use taxes.

# Net Individual and Corporate Income Tax Collections During Fiscal Years Ended June 30, 2002 to 2011




## Individual Income Tax

The individual income tax rates ranged from 2.1% to 5.54% of North Dakota taxable income for tax years through 2008. For tax years 2007 and 2008, taxpayers were allowed a property tax relief income tax credit, which reduced collections in FY 2008 and FY 2009. For tax years 2009 and 2010, tax rates ranged from 1.84% to 4.86%, a 12.3% reduction. For tax years beginning with 2011, tax rates now range from 1.51% to 3.99% of North Dakota taxable income. This represents a 17.9% reduction. In the past three tax years, individual income tax rates have been reduced nearly 30%.

Individual income tax revenues are deposited in the State General Fund.

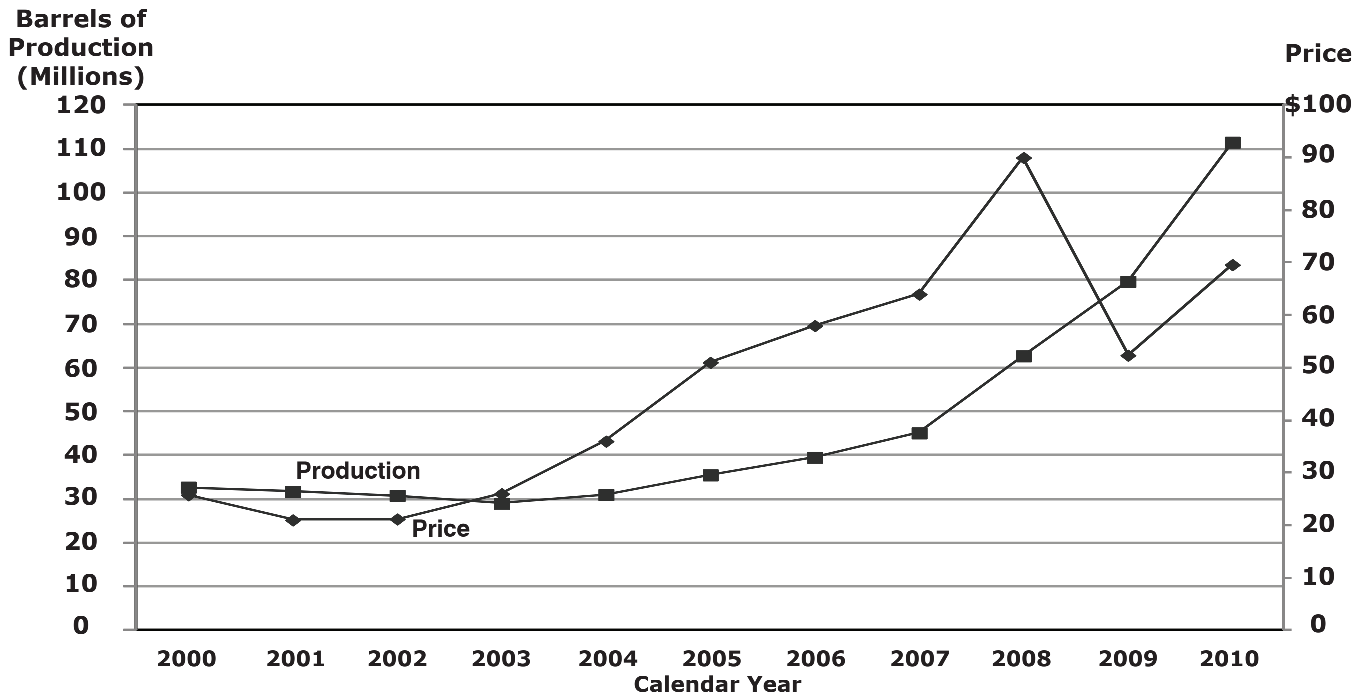
## Corporate Income Tax

The corporate income tax rates ranged from 2.6% to 7.0% of North Dakota taxable income for tax years through 2006. For tax years 2007 and 2008 rates ranged from 2.6% to 6.5%. For tax years 2009 and 2010, tax rates ranged from 2.1% to 6.4%. For tax years beginning with 2011, tax rates now range from 1.68% through 5.15%. In the past three tax years, corporate income tax rates have been reduced nearly 25%.

Corporation income tax revenues are deposited in the State General Fund.

## Annual Crude Oil Production in North Dakota and Domestic Oil Price Per Barrel During Calendar Years 2000 to 2010

**Production: North Dakota Industrial Commission Oil Statistics**
**Price: Average Tesoro Posted Field Price for North Dakota**




### Oil and Gas Gross Production and Oil Extraction Tax Revenues 2009-2011 Biennium

| | Fiscal Year 2010 | Fiscal Year 2011 | 2009-2011 Biennium |
|---|---|---|---|
| **Net Collections** | | | |
| Oil & Gas Gross Production Tax | $ 302,099,211 | $ 481,083,658 | $ 783,182,869 |
| Oil Extraction Tax | 280,611,437 | 496,749,735 | 777,361,172 |
| Total | $ 582,710,648 | $ 977,833,393 | $ 1,560,544,041 |
| **Distributions** | | | |
| State General Fund | | | $ 71,000,000 |
| Permanent Oil Tax Trust Fund | | | 981,554,724 |
| Counties/Cities/School Districts | | | 157,419,253 |
| Tribe | | | 40,829,411 |
| Foundation Aid Stabilization Fund | | | 74,443,217 |
| Common Schools Trust Fund | | | 74,443,217 |
| Resources Trust Fund | | | 148,886,433 |
| Oil & Gas Impact Grant Fund | | | 8,000,000 |
| Oil & Gas Research Fund | | | 4,000,000 |
| Total | | | $ 1,560,576,255 |

***Note:** Some collections are distributed in the following biennium and some distributions are from revenue collected in the prior biennium. Distributions lag collections by a month.*

# Oil and Gas Gross Production Tax

The gross value of oil production at the well, less any part which is specifically exempt, is taxed at a rate of 5% in lieu of property taxes on the oil and gas producing properties. Gas production is taxed on a volume basis at a rate determined by the movement of a fuels cost index. During fiscal year 2010, gas production was taxed at the rate of 18.31¢ per 1,000 cubic feet (MCF). In fiscal year 2011, the tax rate was 9.14¢ per MCF.

Thirty-three and one-third percent of the first one-fifth of the oil and gas gross production tax revenue, up to $8 million, is distributed to the Oil Impact Grant Fund. The remaining 66.7% of the first one-fifth of the tax revenue is distributed to the State General Fund. The remaining four-fifths of the tax revenue is distributed between the county in which the oil or gas is produced and the State General Fund according to the following distribution schedule: The first $2 million each year is distributed to the producing county; the next $1 million is distributed 75% to the county and 25% to the State General Fund, the next $1 million is distributed 50% to the county and 50% to the state; the next $14 million is distributed 25% to the county and 75% to the state; for revenues over $18 million, 10% to the county and 90% to the state. The county allocation is apportioned as follows: 45% to the county general fund, 35% to the school districts within the county and 20% to the incorporated cities. County school allocations are split between the school and the county infrastructure fund based on allocation steps and limits, and the county population.

Oil tax revenue in the State General Fund that exceeded $71 million in the biennium was transferred to the statutory Permanent Oil Taxes Trust Fund. Additionally, 2% of the State General Fund share, up to $4 million per biennium, was deposited in the Oil and Gas Research Fund.

# Oil Extraction Tax

The oil extraction tax became effective January 1, 1981, as a result of an initiated measure passed by the citizens of North Dakota. The gross value of oil production at the well, less any part which is specifically exempt, was taxed at 6.5%.

The 1987 Legislative Assembly changed the oil extraction tax with respect to new wells, secondary and tertiary recovery projects, and low production (stripper) wells. Oil produced from new wells drilled and completed after April 27, 1987, was exempted from the oil extraction tax during the first 15 months following the well's completion. After the 15-month exemption period, the oil produced from the qualifying new well was subjected to a reduced oil extraction tax rate of 4%. The 4% tax rate may also apply to oil produced from a well in a qualifying secondary or tertiary recovery project. The legislature expanded the definition of stripper well property to allow more wells to qualify for the stripper well exemption.

Effective July 1, 1987, the oil extraction tax exemption for the private royalty interest was eliminated.

The 1989 Legislative Assembly provided a one-year exemption from the oil extraction tax for qualifying work-over projects.

The 1991 Legislative Assembly provided a time-limited exemption from the oil extraction tax for incremental oil produced from an enhanced recovery project. Upon expiration of the exemption, incremental oil produced by the project qualifies for a 4% oil extraction tax rate. Nonincremental oil may qualify for a reduced tax rate of 4%.

The 1993 Legislative Assembly modified the definition of a qualifying work-over project. Upon completion of the work-over exemption, the project qualifies for a 4% oil extraction tax rate. The 1995 Legislature also modified exemptions and created new ones.

Most of these incentives are triggered on and off based on oil prices. The majority of incentives have been triggered off since October 1, 2004 because oil prices have exceeded the trigger price.

In the 2009-2011 biennium, the oil extraction tax revenue was distributed according to a formula which allocated 60% of the revenue to the State General Fund, 20% to the Resources Trust Fund and 20% divided equally between the Common Schools Trust Fund and Foundation Aid Stabilization Fund. The State General Fund share in excess of $71 million, in any given biennium, is transferred to the permanent oil taxes trust fund. Up to 2% of the State General Fund share is transferred to the Oil and Gas Research Fund.

# Coal Conversion Tax
# 2009-2011 Biennium

### Kilowatt Hours Produced During the 2009-2011 Biennium

| | Fiscal Year 2010 | Fiscal Year 2011 |
|---|---|---|
| Total Kwh Produced | 29,073,673,156 | 27,447,311,295 |

### Distribution of Coal Conversion Tax Revenue - 2009-2011 Biennium

| Distribution Fund | Fiscal Year 2010 | Fiscal Year 2011 |
|---|---|---|
| Counties | $ 5,040,280.81 | $ 5,168,204.61 |
| State General Fund | 21,113,869.02 | 17,950,429.68 |
| Total Revenue Collected | $26,154,149.83 | $23,118,634.29 |

Coal Conversion Facilities Tax: Facilities that process or convert coal are subject to the coal conversion facilities tax unless expressly exempted by statute. Electrical generating plants that have a single generating unit with the capacity of 10,000 kilowatts or more are subject to the coal conversion facilities tax. Electrical generating plants are subject to two conversion tax levies. One levy is .65 mill times 60% of installed capacity times the number of hours in the taxable period. The revenue from this levy is distributed 85% to the State General Fund and 15% to the county in which the plant is located. The other levy is .25 mill per kwh of electricity produced for sale. The revenue from this levy is distributed to the State General Fund.

Also subject to the coal conversion facilities tax is the coal gasification plant. This tax is the greater of: (A) 4.1% of gross receipts, excluding revenues derived from by-products (up to a maximum of 20% of gross receipts) and revenue from synthetic natural gas produced in excess of 110 million cubic feet per day, or (B) 13.5¢ on each 1,000 cubic feet of synthetic natural gas produced up to 110 million cubic feet per day. The U.S. Department of Energy operated the coal gasification plant from August 1, 1985, through October 31, 1988, during which time the plant was exempt from the coal conversion facilities tax. The plant was purchased by the Dakota Gasification Company, which began taxable production November 1, 1988. The new owner was exempt from the state's share (65%) of the tax for five years from the date of purchase because of provisions enacted by the 1987 Legislature. (This exemption expired October 31, 1993). Throughout the five-year exemption from the state's share, the plant was subject to the county share of the tax (35% at that time).

The 1989 Legislature enacted a special coal conversion facilities tax on coal beneficiation plants of 20 cents per ton of beneficiated coal produced for sale or 1¼% of gross receipts, whichever is greater. An exemption was made for beneficiated coal produced in excess of 80% of the plant design capacity.

The 1991 Legislature enacted a five-year exemption from part or all of the tax for new lignite-burning electrical generating plants.

The 1997 Legislature exempted from the Coal Conversion Facilities Tax the revenue from the sale of by-products, to a maximum of 35% of gross receipts, for a four-year period beginning January 1, 1997. Revenue from the sale and transportation of carbon dioxide for use in enhanced recovery of oil and natural gas was also exempted from this tax.

The 2001 Legislature amended the definition of a coal conversion facility to include an electrical generating plant that has at least one single unit with a capacity of 10,000 kilowatts or more. The tax rate on installed capacity increased to .65 mill times 60% of installed capacity times the number of hours in the taxable period. Distribution of the tax on installed capacity changed to allocate 85% to the State General Fund and 15% to the county in which the plant is located. The tax rate on synthetic natural gas increased to $.135 per 1,000 cubic feet. The tax rate on gross receipts changed from 2.5% to 4.1%. Through December 31, 2009, the first $41,666.67 each month from a coal conversion facility other than an electrical generating plant is deposited in the State General Fund. The remainder is allocated 85% to the State General Fund and 15% to the county in which the plant is located. The Legislature provided that the allocation of coal conversion tax to each county may not be less in each calendar year than it was in the immediately preceding calendar year.

The 2005 Legislature enacted the Coal Conversion Facility Tax Reduction Act that provides a five-year exemption for electrical generating plants that complete repowering. "Repowering" is defined as an investment of more than $200 million or $1 million per megawatt of installed nameplate capacity, whichever is less, in an existing power plant that modifies or replaces the process used for converting lignite coal from its natural form into electric power.

The 2007 Legislature provided that for the 2007-09 biennium 3½% of funds allocated to the State General Fund from the coal conversion tax must be allocated to the lignite research fund. After June 30, 2009, 5% must be allocated to the lignite research fund, through July 31, 2018.

The 2009 Legislature clarified that the exemption for new or repowered electrical generating plants is limited to a new or repowered unit of a plant. They provided that a coal conversion facility that achieves a 20% capture of carbon dioxide emissions during a taxable period receives a 20% reduction in the state general fund share of the coal conversion tax, and an additional reduction of 1% for every additional two percentage points of its capture of carbon dioxide emissions, up to 50% reduction for 80% or more capture.

Any county which has a coal conversion facility that was not a coal conversion facility before January 1, 2002, had to receive for calendar year 2002 at least as much as that facility paid in property taxes for taxable year 2001. For subsequent years, that county must receive no less than it received in the preceding calendar year. All amounts received from that facility must be allocated in the same manner property taxes for the facility were allocated for taxable year 2001.

# Coal Severance Tax
# 2009-2011 Biennium

## Tonnages Severed During the 2009-2011 Biennium

Taxable Tons Severed:

| County | Fiscal Year 2010 | Fiscal Year 2011 |
|---|---|---|
| Bowman | 29,009 | 86,223 |
| McLean | 7,485,763 | 7,622,205 |
| Mercer | 17,476,536 | 16,732,943 |
| Oliver | 4,391,014 | 3,625,356 |
| Williams | 6,628 | 7,176 |
| Total Taxable Tons Severed | 29,388,950 | 28,073,903 |

## Distribution of Coal Severance Tax Revenue - 2009-2011 Biennium

| Distribution Fund | Fiscal Year 2010 | Fiscal Year 2011 |
|---|---|---|
| Counties (70%) | $7,643,070.17 | $7,484,955.12 |
| Land Board (30%) | 3,275,601.50 | 3,207,837.91 |
| Lignite Research (additional 2¢ per ton) | 587,779.00 | 561,478.06 |
| Total Revenue Collected | $11,506,450.67 | $11,254,271.09 |

# Coal Severance Tax

The Coal Severance Tax was enacted by the 1975 North Dakota Legislative Assembly. This tax is applied to coal severed from the ground on a rate per ton basis. The 1975 law provided for a 50¢ per ton with an escalator clause that increased the tax 1¢ per ton for each three point increase in the Wholesale Price Index. The 1975 law was made effective July 1, 1975.

The revenues collected during the 1975-77 biennium were distributed according to the following formula:

1. 35% to a special fund to be granted by the Impact Office to impacted political subdivisions.
2. 30% to a special trust fund to be administered by the State Land Board.
3. 5% to coal-producing counties.
4. 30% to the State General Fund.

The 1975 law was replaced with the 1977 law, changing the rate and distribution formula. The 1977 law, effective July 1, 1977, provided for a 65¢ per ton with an escalator clause that increased the tax 1¢ per ton on a quarterly basis for every one point increase in the Wholesale Price Index.

The 1977 law also changed the distribution of revenues to the following formula:

1. 35% to a special fund to be granted by the Impact Office to impacted political subdivisions.
2. 15% to a special trust fund to be administered by the State Land Board.
3. 20% to coal-producing counties.
4. 30% to the State General Fund.

The 1977 law was replaced with the 1979 law. The 1979 law, effective July 1, 1979, provided for an 85¢ per ton tax with an escalator that would increase the tax 1¢ per ton on a semi-annual basis for every four point increase in the Wholesale Price Index (now known as the Producer Price Index). The distribution of revenues remained the same.

The 1981 Legislative Assembly exempted from the coal severance tax coal used by the state or any of its political subdivisions and coal used for heating buildings within the state. Coal used for heating purposes became subject to the sales tax.

The 1985 Legislative Assembly exempted from the coal severance tax coal used in agricultural processing or sugar beet refining plants within North Dakota or adjacent states. Also, the tax rate was reduced by 50% for coal burned in a cogeneration facility designed to use renewable resources to generate 10% or more of its energy output.

The 1987 Legislative Assembly amended the coal severance tax law, removing the escalator clause and reducing the tax rate from $1.04 to 75¢ per ton and enacting an additional temporary tax of 2¢ per ton dedicated to lignite research. The 1987 law also changed the distribution of the revenue to the following formula:

1. 15% to a special trust fund to be administered by the State Land Board
2. 35% to coal-producing counties
3. 50% to the State General Fund

The 1989 Legislative Assembly made the two cents per ton tax for lignite research a permanent tax. A resolution was passed which placed on the Primary Election ballot a constitutional amendment to allow up to 50% of the tax collected and deposited in the permanent trust fund during a biennium to be appropriated by the Legislative Assembly for lignite research, development and marketing. The measure was approved by the voters and became effective July 1, 1990.

The 1993 Legislative Assembly limited the amount of coal production on which a coal producing county has to share its severance tax with a nearby nonproducing county. The uses of the trust fund were expanded to include loans for school construction. Coal shipped out of state after June 30, 1995, and before July 1, 2000, was made exempt from the state's 50% portion of the tax; counties may grant a partial or complete exemption from the county's 35% portion. A constitutional amendment was placed on the June 1994 Primary Election ballot that allowed appropriations from the trust fund for clean coal demonstration projects approved by the North Dakota Industrial Commission and the United States Department of Energy. The amendment was approved by the voters.

The 2001 Legislative Assembly reduced the tax rate from 75¢ per ton to 37.5¢ per ton and eliminated the distribution to the State General Fund. The allocation was changed to 30% to the coal development trust fund and 70% to the coal producing counties.

The 2009 Legislature prohibited imposition of coal severance tax on coal used to produce steam that is used in agricultural commodity processing facilities in North Dakota or adjacent states or any facility owned by the state or a political subdivision of the state, or on coal purchased for improvement through coal beneficiation and subsequently used in, or used to produce steam that is used in, agricultural commodity processing facilities located in North Dakota or adjacent states or any facility owned by the state or a political subdivision of the state.

## Transmission Line Tax Collections

The 2009 Legislature repealed N.D.C.C. ch. 57-33.1 under which transmission line taxes were collected. Collections represent payments made under N.D.C.C. ch. 57-06 by certain investor-owned utilities that owned or operated electrical transmission lines of 230 kilovolts or larger. After the fourth taxable year of operation they were taxed at the rate of $300 per mile for lines initially placed in service after October 1, 2002.

| | 2007-2009 Biennium | | 2009-2011 Biennium | |
|---|---|---|---|---|
| | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
| Transmission Line Tax | $442,687.50 | $442,851.75 | $27,558.00 | $27,558.00 |

SOURCE: Property Tax Division, Office of State Tax Commissioner

## Electric Generation, Distribution, and Transmission Taxes

Taxes Certified for Collection for the Years: *

| | 2009 | 2010 |
|---|---|---|
| Rural Electric Cooperative | $9,335,019.44 | |
| Cooperative-owned Transmission Line Tax | $7,809,437.19 | |
| Electric Distribution Tax | | $5,712,833.70 |
| Electric Transmission Tax | | 1,328,338.75 |
| Electric Generation from Wind Tax | | 7,188.37 |
| Electric Generation (from sources other than wind and coal) | | 17,247.94 |

SOURCE: Property Tax Division, Office of State Tax Commissioner

*These taxes are levied by the State Board of Equalization in August of the indicated year and are payable in the following year.

The 2009 Legislature repealed N.D.C.C. ch. 57-33, the Rural Electric Cooperative Gross Receipts Tax, and ch. 57-33.1, Taxation of Cooperative Electrical Generating Plants, and enacted ch. 57-33.2, Electric Generation, Distribution, and Transmission Taxes. The new taxes apply to all electric generation, distribution, and transmission companies that are not subject to taxation under ch. 57-06. A company subject to ch. 57-06 may file an irrevocable election to be taxed under ch. 57-33.2 instead. The taxes are paid to the State Tax Commissioner and allocated to counties and taxing districts.

## Telecommunications Carriers

Beginning with tax year 1998, all telecommunications companies including mutual and cooperative telephone companies pay a gross receipts tax at the rate of 2½% of adjusted gross receipts. The tax is payable to the State Tax Commissioner and is in lieu of all real and personal property taxes on property directly used by a telecommunications carrier in its telecommunications operations. There is a standing appropriation of $8.4 million which the State Treasurer distributes annually to counties and their political subdivisions according to a statutory formula, regardless of the amount generated by the gross receipts tax.

| | 2007 | 2008 | 2009 | 2010 |
|---|---|---|---|---|
| Telecommunications Tax Assessed | $10,333,459.38 | $10,854,946.86 | $11,110,892.21 | $10,941,035.10 |

SOURCE: Proceedings of the State Board of Equalization, Office of State Tax Commissioner

# Financial Institutions Tax

The 1997 North Dakota Legislature passed legislation changing the tax law covering financial institutions. The legislation repealed North Dakota Century Code chs. 57-35, 57-35.1 and 57-35.2, and replaced them with a new chapter, N.D.C.C. ch. 57-35.3. The legislation is effective for taxable years beginning on or after January 1, 1997.

The tax under N.D.C.C. ch. 57-35.3 is imposed on every financial institution for the privilege of transacting business in North Dakota. The definition of financial institution includes not only banking entities, but also bank holding companies, production credit associations and leasing companies.

In general, the tax liability of the financial institution is determined by multiplying North Dakota taxable income by seven percent (7%). This amount, which may not be less than fifty dollars ($50.00), is divided between the state general fund and the financial institution tax distribution fund for eventual distribution to the counties. The state general fund receives 2/7's of the tax while the financial institutions tax distribution fund receives 5/7's of the tax. The state general fund portion of the tax must be paid on or before April 15 following the end of the taxable year. The financial institution tax distribution fund portion of the tax must be paid on or before January 15 of the second year following the taxable year. The distribution to the counties is made on or before March 1 of each year.

## Financial Institutions Tax Collections

| | 2007-2009 Biennium | | 2009-2011 Biennium | |
|---|---|---|---|---|
| | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
| Total Net Collections | $ 17,508,156.27 | $ 16,504,954.92 | $ 10,451,318.55 | $ 11,923,763.12 |
| State General Fund | $ 5,761,402.27 | $ 4,725,092.44 | $ 2,830,664.55 | $ 3,918,088.12 |
| Financial Institution Distribution Fund | $ 11,746,754.00 | $ 11,779,862.48 | $ 7,620,654.00 | $ 8,005,675.00 |

## Cigarette and Tobacco Products Net Tax Collections

| | 2007-2009 Biennium | | 2009-2011 Biennium | |
|---|---|---|---|---|
| | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
| 3¢ per package cigarette tax distributed to cities on population basis | $1,421,336.94 | $1,405,152.04 | $1,353,441.68 | $1,400,356.97 |
| 41¢ per package cigarette tax distributed to State General Fund | $19,424,938.17 | $19,203,744.37 | $18,430,123.28 | $19,050,409.05 |
| 28% of the wholesale price of tobacco products distributed to State General Fund | $3,165,007.43 | $3,388,877.92 | $3,976,397.58 | $4,738,152.95 |

The cigarette tax rate is 44¢ per package of 20 cigarettes. Generally, the tobacco products tax is 28% of the wholesale purchase price. Some tobacco products are taxed based on weight.

## Standing Rock Sioux Tribe Cigarette and Tobacco Tax

| | 2007-2009 Biennium | | 2009-2011 Biennium | |
|---|---|---|---|---|
| | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
| Amount distributed to the Tribe | $63,382.91 | $65,306.31 | $64,692.59 | $63,023.58 |
| Amount distributed to the State General Fund | $23,741.35 | $24,461.82 | $24,231.93 | $23,606.78 |

The Office of State Tax Commissioner acts as an agent for the Tribe in the collection of a tribal cigarette and tobacco tax. The tax rates are identical to the state cigarette and tobacco tax rates. Seventy-five percent of the collection, less a 3% administrative fee is returned to Standing Rock Sioux Tribe. The administrative fee plus 25% of the collections are deposited into the State General Fund.

SOURCE: Comparative Statement of Collections, Office of State Tax Commissioner.

## Airline Tax

Operating real property of air transportation companies is assessed by the State Board of Equalization. The taxes are computed and collected by the Tax Commissioner and certified to the State Treasurer for distribution. The taxes upon air transportation companies are allocated by the State Treasurer to the city or municipal airport authority where each company makes regularly scheduled landings according to the ratio that the value of the company's assessable property at a given city or municipal airport bears to the total value of the company's assessable property located in North Dakota.

### Taxes Certified to State Treasurer for the Years: *

| | 2007 | 2008 | 2009 | 2010 |
|---|---|---|---|---|
| Airlines | $204,969.16 | $235,747.80 | $202,398.98 | $212,110.18 |

* Airline assessments of real property are determined by the State Board of Equalization in August of each year. The tax due amounts are computed in the spring of the following year using the average mill rate for cities operating airports served by scheduled airlines.

SOURCE: Property Tax Division, Office of State Tax Commissioner.

# Aviation Fuel, Motor Vehicle Fuel, and Special Fuel Taxes Collections and Disbursements 2009-2011 Biennium

| Aviation Fuel, Motor Vehicle Fuel, & Special Fuel Collections - Tax, Penalty, Interest, & Fees | FY-2010 Dollars | FY-2011 Dollars |
|---|---|---|
| **Aviation Fuel:** | | |
| Aviation Gasoline - at $.08 Per Gallon | $ 157,828.98 | $ 149,528.10 |
| Jet Fuel - at $.08 Per Gallon | 1,190,410.90 | 1,410,155.65 |
| Penalty and Interest | 486.23 | 179.25 |
| *Total Collections* | $ 1,348,726.11 | $ 1,559,863.00 |
| Total Refunded | 33,853.29 | 34,503.68 |
| *Net Collections* | $ 1,314,872.82 | $ 1,525,359.32 |
| **Motor Vehicle Fuel:** | | |
| Gasoline - at $.23 Per Gallon | $ 36,820,545.64 | $ 38,519,346.74 |
| Gasohol - at $.23 Per Gallon | 48,729,976.50 | 50,480,535.92 |
| Penalty and Interest | 113,061.27 | 40,772.06 |
| *Total Collections* | $ 85,663,583.41 | $ 89,040,654.72 |
| Total Refunded | 1,729,320.81 | 1,083,903.87 |
| *Net Collections* | $ 83,934,262.60 | $ 87,956,750.85 |
| **Special Fuel:** | | |
| Diesel-Propane - at $.23 Per Gallon | $ 53,385,360.65 | $ 64,649,667.38 |
| Diesel-Heating-Kerosene-Propane - at 2% or $.04 Per Gallon | 11,976,419.36 | 15,040,635.17 |
| Heating | 77,249.47 | (13,765.86) |
| Penalty and Interest | 32,545.33 | 61,166.55 |
| *Total Collections* | $ 65,471,574.81 | $ 79,737,703.24 |
| Total Refunded | 521,155.04 | 379,872.56 |
| *Net Collections* | $ 64,950,419.77 | $ 79,357,830.68 |
| **Consolidated Laboratories Inspection Fees:** | | |
| From Motor Vehicle Fuel | $ 95,813.76 | $ 100,549.64 |
| From Special Fuels (except Propane) | 127,141.40 | 160,875.44 |
| *Total Collections* | $ 222,955.16 | $ 261,425.08 |
| **License Fees:** | | |
| Aviation Fuel Tax Licenses | $ 340.00 | $440.00 |
| Motor Vehicle Fuel Tax Licenses | 360.00 | 500.00 |
| Special Fuels (Diesel-Heating-Kerosene) Tax Licenses | 585.00 | 400.00 |
| Liquefied Petroleum Gas Tax Licenses | 20.00 | 40.00 |
| *Total Collections* | $ 1,305.00 | $ 1,380.00 |
| **Cash Bonds:** | ($ 2,000.00) | $ 159,500.00 |
| **Tribal Tax Collections:** | | |
| Standing Rock Gasoline/Gasohol - at $.23 Per Gallon | $ 312,218.18 | $ 315,084.41 |
| Standing Rock Diesel Fuel - at $.23 Per Gallon | 28,351.43 | 37,471.27 |
| Spirit Lake Gasoline/Gasohol - at $.23 Per Gallon | 279,988.43 | 229,347.70 |
| Spirit Lake Diesel Fuel - at $.23 Per Gallon | 16,357.32 | 23,904.32 |
| Three Affiliated Gasoline/Gasohol - at $.23 Per Gallon | 580,214.45 | 663,220.38 |
| Three Affiliated Diesel Fuel - at $.23 Per Gallon | 442,588.85 | 671,483.52 |
| Turtle Mountain Gasoline/Gasohol - at $.23 Per Gallon | 0.00 | 447,901.01 |
| Turtle Mountain Diesel Fuel - at $.23 Per Gallon | 0.00 | 22,339.26 |
| *Total Tribe Gasoline/Gasohol - at $.23 Per Gallon* | $ 1,172,421.06 | $ 1,655,553.50 |
| *Total Tribe Diesel Fuel - at $.23 Per Gallon* | $ 487,297.60 | $ 755,198.37 |
| ***Grand Total of Collections*** | $152,706,144.49 | $ 170,760,526.04 |
| ***Grand Total of Refunds*** | 2,284,329.14 | 1,498,280.11 |
| ***Grand Total of Net Collections*** | $150,421,815.35 | $ 169,262,245.93 |

# Aviation Fuel, Motor Vehicle Fuel, and Special Fuel Taxes
# Taxable Gallons 2009-2011 Biennium

| Aviation Fuel, Motor Vehicle Fuel, & Special Fuel Taxable Gallons | FY-2010 Gallons | FY-2011 Gallons |
|---|---|---|
| **Aviation Fuel:** | | |
| Aviation Gasoline - at $.08 Per Gallon | 1,867,720 | 1,855,134 |
| Jet Fuel - at $.08 Per Gallon | 14,958,864 | 17,793,448 |
| *Total Taxable Gallons* | 16,659,584 | 19,648,582 |
| Gallons Refunded $.08 Per Gallon Tax at 4% | 0 | 0 |
| Other Refunds - US Gov't Etc | 166,680 | 243,100 |
| *Net Collections at $.08* | 16,659,904 | 19,405,482 |
| **Motor Vehicle Fuel:** | | |
| Gasoline - at $.23 Per Gallon | 159,907,606 | 169,707,014 |
| Gasohol - at $.23 Per Gallon | 215,702,928 | 223,934,186 |
| *Total Taxable Gallons* | 375,610,534 | 393,641,200 |
| Gallons on which Tax was Refunded | 6,879,324 | 5,493,779 |
| *Net Taxable Gallons* | 368,731,210 | 388,147,421 |
| **Special Fuel:** | | |
| Diesel-Propane - at $.23 Per Gallon | 226,436,995 | 278,464,790 |
| Diesel-Kerosene-Propane - at 2% or $.04 Per Gallon | 316,218,812 | 385,552,293 |
| Heating | 68,063,448 | 72,358,292 |
| ***Total of Taxable Gallons*** | 610,719,255 | 736,375,375 |
| ***Gallons on which Tax was Refunded*** | 840,634 | 801,553 |
| ***Grand Total Net Taxable Gallons*** | 609,878,621 | 735,573,822 |
| ***Grand Total Taxable Gallons*** | 995,269,735 | 1,143,126,725 |

**Aviation Fuel:** A per gallon tax is levied on all aviation fuel. For this biennium the tax was $.08 per gallon. Consumers purchasing aviation fuel for use in aircraft may request a refund of the $.08 per gallon tax. When a refund is granted, the consumer is assessed a tax of 4% of the price of the fuel. The 4% tax is assessed in lieu of the $.08 per gallon tax and is deducted from the refund.

**Motor Vehicle Fuel:** A per gallon tax is levied on all motor vehicle fuel (gasoline and gasohol). For this biennium the tax was $.23 per gallon. The tax is refundable when the fuel is used in nonlicensed equipment for an emergency medical service, agricultural, industrial or railroad purpose. Refunds to industrial consumers are reduced by $.015 per gallon. Of the $.015 per gallon withheld, $.01 per gallon is Township Highway Aid Fund revenue and $.005 per gallon is deposited into the Agriculturally Derived Fuel Tax Fund. Refunds to agricultural consumers are reduced by $.08 per gallon. Of the $.08 per gallon withheld, $.01 per gallon is Township Highway Aid Fund revenue, $.01 per gallon is earmarked for ethanol production incentives, $.02 per gallon is deposited into the Agriculturally Derived Fuel Tax Fund, and $.04 per gallon is deposited into the Agricultural Research Fund.

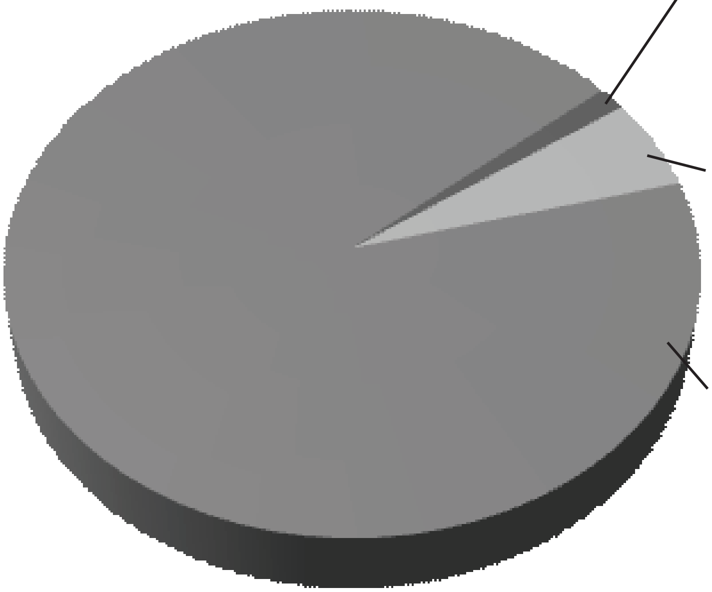
**Special Fuels:** For this biennium the tax was $.23/ gallon. The tax was changed from 2% to $.04/gallon on dyed fuel and kerosene used in non-licensed equipment. A tax of 2% is levied on propane. Fuel that qualified for heating fuel purposes including dyed fuel, kerosene, and propane, had a reduced rate ($.02/gallon dyed fuel; 1% for propane) from January 2008 to June 2009. Heating fuel is exempt from tax effective July 1, 2009.

**Administration:** The fuel taxes are administered by the Tax Commissioner. The Motor Fuel Tax Section is part of the Tax Administration Division. A portion of the motor fuel tax collections are set aside in an operating fund for the administration of the tax. The remaining tax collections are disbursed according to statutes.

**Tribal Taxes:** The Standing Rock Sioux, Spirit Lake Tribes, Three Affiliated Tribes, and Turtle Mountain Tribes passed ordinances imposing a $.23 per gallon motor vehicle fuel tax and a $.23 per gallon special fuel tax. The State of North Dakota and the Office of State Tax Commissioner entered into an agreement to collect the tax for the Tribes.

## Sources of General Ad Valorem Property Taxes, Special Property Taxes and Special Assessments

### (Levied in 2010 - Payable in 2011)



Special Property Taxes (1.45% of Total)

| | |
|---|---|
| Mobile Home | $ 3,169,857.56 |
| Electric Generation, Distribution, and Transmission Taxes | 7,036,194.28 |
| Payment in Lieu of Taxes | 1,595,669.20 |
| Woodland | 20,320.75 |
| Total | $ 11,822,041.79 |

Utilities (5.56% of Total)

| | |
|---|---|
| Railroads | $ 8,544,751.03 |
| Electric, Gas, Water & Heat | 12,602,183.43 |
| Pipe Lines | 24,223,710.77 |
| Total | $ 45,370,645.23 |

Real Estate (92.99% of Total)*

| | |
|---|---|
| Rural | $242,838,447.50 |
| City | 516,184,498.61 |
| Total | $759,022,946.11 |

| | |
|---|---|
| Grand Total (100%) | $816,215,633.13 |

* Includes all special assessments.

Source: 2010 Property Tax Statistical Report compiled by the Office of State Tax Commissioner.

**<u>Property Tax</u>**

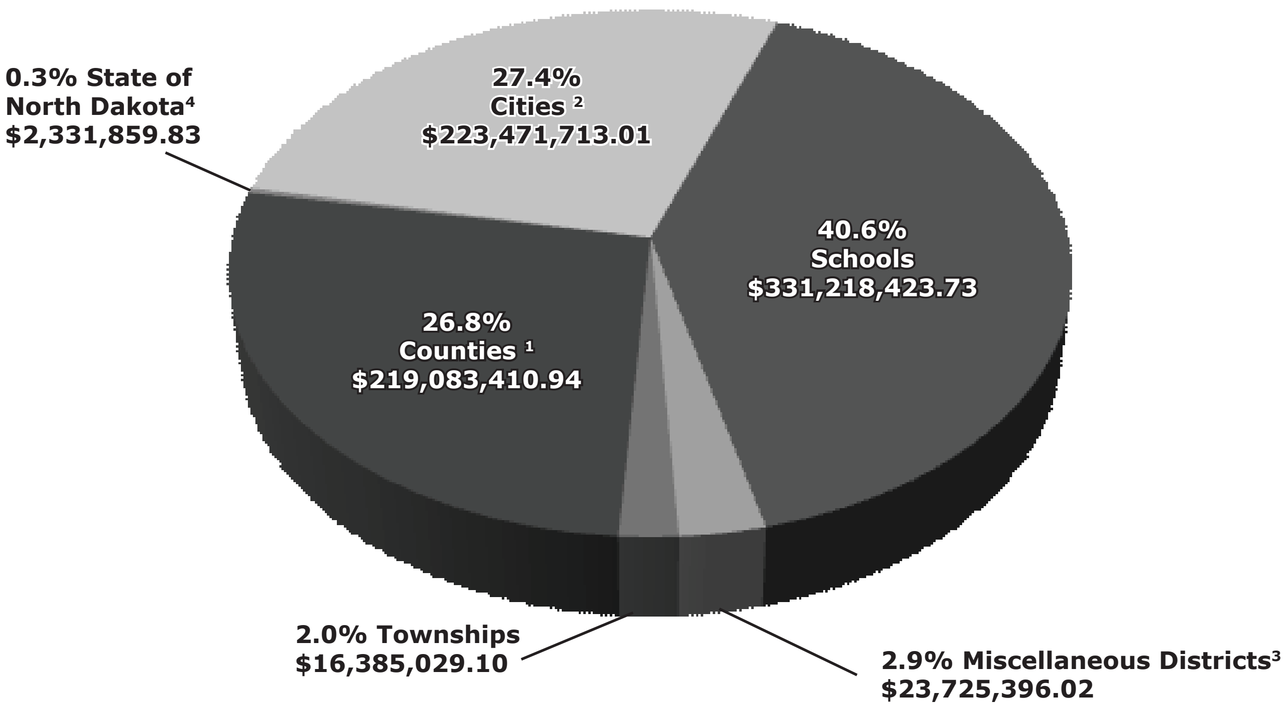
Real property owned by a corporation, partnership, individual, estate or trust is subject to a tax based on its valuation. The property tax, except the tax on the operating property of railroads and other utilities, is assessed locally. The property tax is collected and distributed by the county to the county, cities, townships, school districts, and other taxing districts. The North Dakota Century Code has provided that assessments be at true and full value and that assessed value be computed at 50% of true and full value. Also, true and full value of agricultural property is based upon productivity. Beginning with taxes levied in 1981 (payable in 1982) and thereafter, the assessed value is 50% of true and full value and taxable value is a percentage of assessed value according to the percentages established by the Legislature for the various classes of property as follows: residential property at 9%, commercial, railroad and airline property at 10% and agricultural property at 10%. Taxable value of centrally assessed wind turbine electric generators constructed before January 1, 2015, is 3%. Taxable value of centrally assessed wind turbine electric generators for which a purchased power agreement has been executed after April 30, 2005, and before January 1, 2006, and construction is begun after April 30, 2005, and before July 1, 2006, is 1½% of assessed value. Taxable value of centrally assessed wind turbine electric generators on which construction is completed after June 30, 2006, and before January 1, 2015, is 1½% of assessed value.

The assessed valuation of railroad and public utility property is centrally determined by the State Board of Equalization. Electric generation distribution and transmission companies that are not subject to taxation under N.D.C.C. ch. 57-06 are subject to electrical generation distribution and transmission taxes under N.D.C.C. ch. 57-33.2. All telecommunications companies are subject to a gross receipts tax.

Instead of a property tax, large electrical generating plants are subject to a tax on installed capacity and electricity produced for sale through the coal conversion facilities privilege tax.

# Distribution of General Ad Valorem Property Taxes Special Property Taxes and Special Assessments

## (Levied in 2010 - Payable in 2011)




**Grand Total - $816,215,832.63**

[1] Including County Park Districts, County Libraries, County Airports, Unorganized Townships, Water Resource and Joint Water Resource Districts.

[2] Including City Park Districts, City Special Assessments, and tax increments.

[3] Garrison Diversion, Rural Fire Districts, Southwest Water Authority, Soil Conservation Districts, Rural Ambulance Districts, Hospital District, Recreation Service Districts and All Special Assessments for Rural Districts.

[4] Constitutional one mill levy for the Medical Center at the University of North Dakota.

Source: 2010 Property Tax Statistical Report compiled by the Office of State Tax Commissioner.

# Property Tax Refunds & Credits For Senior Citizens and Persons with Permanent and Total Disabilities

| Tax Year | Number of Persons Receiving Renter's Refunds | Renter Refunds Paid | Number of Persons Receiving Homeowner's Credits | Homeowner's Credits Tax Amount |
|---|---|---|---|---|
| 2000 | 1,417 | 178,406 | 4,232 | 1,815,019 |
| 2001 | 1,329 | 173,754 | 4,341 | 1,768,001 |
| 2002 | 1,288 | 172,224 | 4,060 | 1,676,737 |
| 2003 | 1,335 | 185,807 | 3,922 | 1,658,942 |
| 2004 | 1,322 | 186,896 | 3,817 | 1,655,555 |
| 2005 | 1,273 | 182,947 | 3,712 | 2,025,029 |
| 2006 | 1,302 | 188,418 | 3,677 | 2,008,310 |
| 2007 | 1,998 | 287,682 | 3,466 | 2,342,186 |
| 2008 | 2,051 | 302,362 | 3,715 | 2,396,968 |
| 2009 | 2,400 | 550,955 | 3,977 | 2,912,719 |
| 2010 | 2,367 | 584,610 | 4,451 | 3,375,376 |

The North Dakota Legislature has provided a homestead property tax credit program since 1969. Persons 65 years of age or older, or totally and permanently disabled, who meet the requirements of the program are eligible to receive a credit to reduce property taxes on their home. Qualified renters receive a partial refund of their rent. Since 1977 the maximum income eligibility limit has been adjusted by the Legislature as follows: from $8,000 to $9,000 in 1979, to $10,000 in 1981, to $12,000 in 1985, to $13,000 in 1989, to $13,500 in 1995, to 14,000 in 1999, to $14,500 in 2005, to $17,500 in 2007, and to $26,000 in 2009.

The credit for eligible homeowners is a reduction in the taxable value of the homestead as determined by the following schedule:

### For Taxes Levied in 2009 and 2010 (Payable in 2010 and 2011)

| Income of | Reduction | Maximum Reduction |
|---|---|---|
| $ 0 - $18,000 | 100% | $4.500 |
| $18,001 - $20,000 | 80% | 3,600 |
| $20,001 - $22,000 | 60% | 2,700 |
| $22,001 - $24,000 | 40% | 1,800 |
| $24,001 - $26,000 | 20% | 900 |

Eligible renters receive a refund of a portion of rent deemed to represent property taxes when 20% of their total annual rent exceeds 4% of their total annual income. Charges for such services as heat, light and furniture must be excluded when determining the annual rent payment for the purposes of renter's refund. The maximum refund allowable to a renter was $240 and was increased to $400 in 2009.

# Property Tax Credits for Disabled Veterans

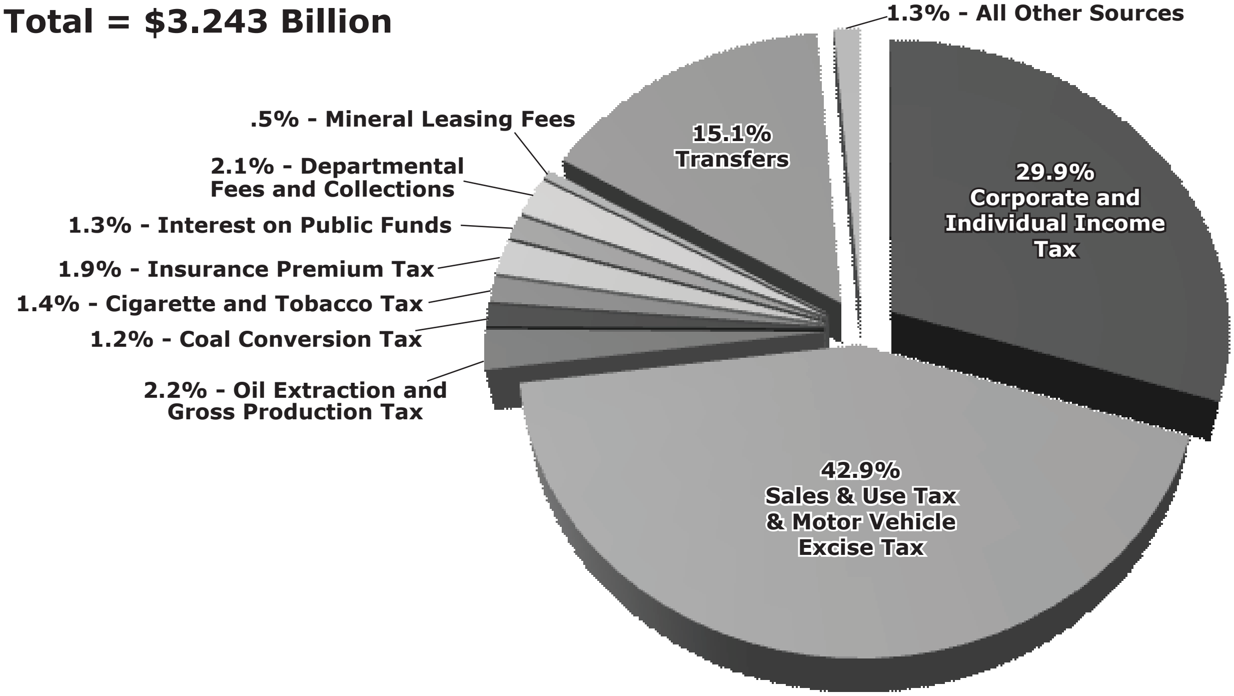
| Tax Year | Number of Qualifying Disabled Veterans | Disabled Veterans' Credit Tax Amount |
|---|---|---|
| 2009 | 1,513 | $1,627,763.06 |
| 2010 | 1,849 | 1,961,238.32 |

Prior to 2009, a property tax exemption existed for disabled veterans with at least 50 percent service-connected disability and limited income. The 2009 Legislature repealed that exemption and enacted N.D.C.C. § 57-02-08.8, which provides a credit for disabled veterans with at least 50 percent service-connected disability. The credit is equal to the veteran's compensation rating for service-connected disabilities, applied against the first $5,400 dollars of taxable valuation of the fixtures, buildings, and improvements of the homestead owned and occupied by the disabled veteran. There is no income test. An unremarried surviving spouse of an eligible disabled veteran is also eligible for the credit. The State reimburses counties for tax revenue lost by political subdivisions due to the credits.

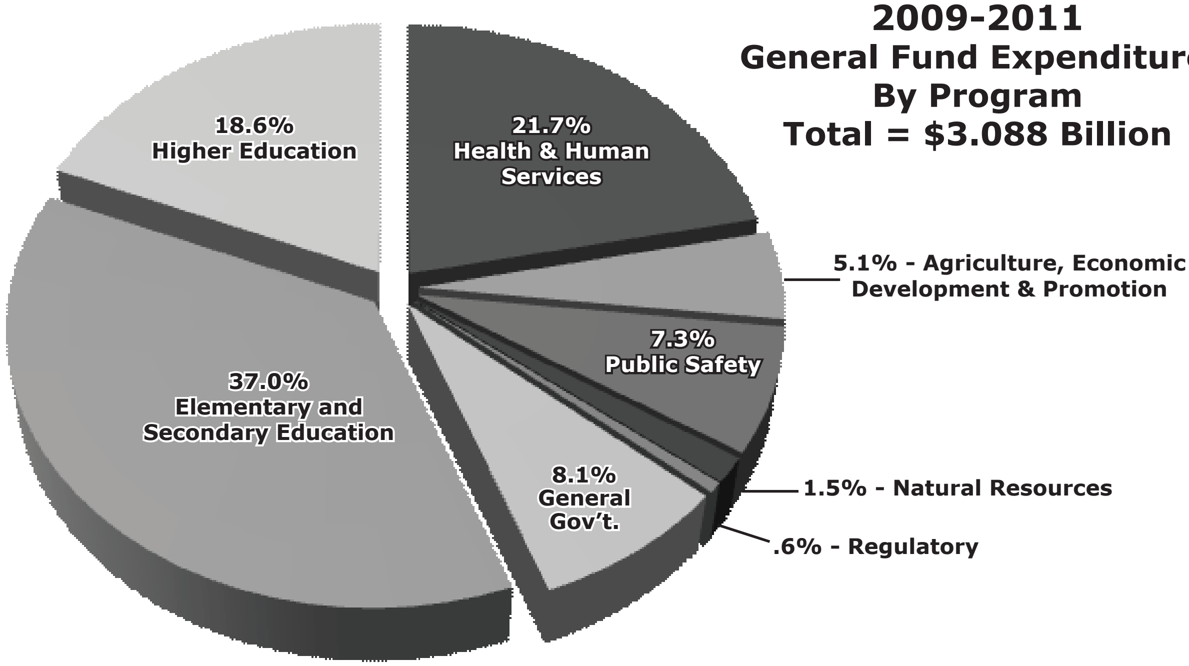
The 2011 legislature provided that a disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to 100 percent is also eligible for the credit. An unremarried surviving spouse who is receiving department of veterans' affairs dependency and indemnity compensation receives a 100 percent exemption.

# State General Fund Revenues and Expenditures in the 2009-2011 Biennium

## 2009-2011 General Fund Revenue Sources Total = $3.243 Billion




## 2009-2011 General Fund Expenditures By Program Total = $3.088 Billion




SOURCE: Office of Management and Budget, November 2011.

# Statement of Expenditures
# 2009 - 2011 Biennium

| Description | Commissioner's Division | Legal Division | Fiscal Mgmt. Division | Taxpayer Services Division | Property & Utility Taxes Division | Operations Division | Integrated Tax System Special Line | Integrated Tax System Loan Pymts | Disabled Veterans Credit | Homestead Tax Credit | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Salaries and Wages | | | | | | | | | | | |
| FY 10 | $694,428.52 | $391,160.78 | $365,256.26 | $4,185,658.20 | $341,581.71 | $2,179,798.27 | | | | | $8,157,883.74 |
| FY 11 | 718,058.82 | 430,492.42 | 388,706.40 | 4,350,985.95 | 384,451.25 | 2,153,504.95 | | | | | $8,426,199.79 |
| Information Services | | | | | | | | | | | |
| FY 10 | 14,113.58 | 2,313.87 | 2,505.12 | 40,581.08 | 2,385.96 | 540,109.09 | | | | | $602,008.70 |
| FY 11 | 14,280.28 | 2,732.17 | 2,608.68 | 49,621.79 | 2,628.69 | 570,420.59 | | | | | $642,292.20 |
| Operating Expenses | | | | | | | | | | | |
| FY 10 | 58,110.99 | 33,332.18 | 12,432.36 | 690,497.20 | 12,069.64 | 2,066,608.01 | | | | | $2,873,050.38 |
| FY 11 | 91,828.92 | 30,347.05 | 22,551.26 | 756,923.80 | 7,930.93 | 2,577,288.17 | | | | | $3,486,870.13 |
| Equipment | | | | | | | | | | | |
| FY 10 | | | | | | 15,453.00 | | | | | $15,453.00 |
| FY 11 | | | | | | 15,433.00 | | | | | $15,433.00 |
| Integrated Tax System | | | | | | | | | | | |
| FY 10 | | | | | | | 210,574.16 | 10,230,246.45 | | | $10,440,820.61 |
| FY 11 | | | | | | | | | | | |
| Disabled Veterans Credit | | | | | | | | | | | |
| FY 10 | | | | | | | | | 1,632,445.65 | | $1,632,445.65 |
| FY 11 | | | | | | | | | 1,970,865.24 | | $1,970,865.24 |
| Homestead Tax Credit | | | | | | | | | | | |
| FY 10 | | | | | | | | | | 3,455,905.05 | $3,455,905.05 |
| FY 11 | | | | | | | | | | 3,967,755.41 | $3,967,755.41 |
| TOTAL | | | | | | | | | | | |
| FY 10 | $766,653.09 | $426,806.83 | $ 380,193.74 | $4,916,736.48 | $356,037.31 | $4,801,968.37 | $210,574.16 | $10,230,246.45 | $1,632,445.65 | $3,455,905.05 | $27,177,567.13 |
| FY 11 | $824,168.02 | $463,571.64 | $413,866.34 | $5,157,531.54 | $395,010.87 | $5,316,646.71 | | | $1,970,865.24 | $3,967,755.41 | $18,509,415.77 |
| **BIENNIAL TOTAL** | **$1,590,821.11** | **$890,378.47** | **$794,060.08** | **$10,074,268.02** | **$751,048.18** | **$10,118,615.08** | **$210,574.16** | **$10,230,246.45** | **$3,603,310.89** | **$7,423,660.46** | **$45,686,962.90** |

# Resources Available From The Office of State Tax Commissioner

**Many of the following publications are available on the department's web site at: www.nd.gov/tax**

## Administration

Brochures
- Career Opportunities
- Tax Incentives for Business

Biennial Report of the Office of State Tax Commissioner

Taxpayer Bill of Rights

State and Local Taxes: An Overview and Comparative Guide (a.k.a. The Red Book)

Business Reports, Forms and Licenses Required in the State of North Dakota

## Income, Oil, Sales, and Special Taxes

Brochures:
- No Dyed Fuel on the Highway
- Canadian Requests for Refunds - North Dakota Sales Tax

Guidelines
- Income Tax
- Income Withholding Tax
- Sales and Use Tax
- Local Option Taxes

Income Withholding Tax Information for Employers

Income Withholding Tax Tables

Information at the Source Return Requirements and Procedures

Newsletters
- Practitioners
- Oil and Gas
- Wholesale Alcohol
- Motor Fuels
- Sales and Use

Notification of the Gas Tax Rate

Sales and Use Tax Rate Charts

Statistical Reports
- Sales and Use Tax
- Income Taxes by School District

Supplemental Tax Guide for U.S. Armed Forces

Tax Law and Administrative Rules
- Alcohol Tax
- Income Tax
- Aviation Fuel Tax
- Motor Vehicle Fuel Tax
- Aviation Excise Tax
- Motor Veh. Excise Tax
- Cig. & Tobacco Taxes
- Oil and Gas Tax
- Estate Tax
- Sales and Use Tax
- Financial Inst. Tax
- Special Fuel Tax
- Gross Receipts Taxes

## Property Taxes

Brochures
- Certification of North Dakota Assessment Officials
- Homestead Credit for Senior Citizens or Disabled Persons
- Property Tax Exemption for Improvements to Residential or Commercial Buildings or Structures
- Guide to Assessing Agricultural Land in North Dakota

Education Schedule

Guidelines

Levy Limitation Schedule

Manuals
- Supervised Home Study Manual
- Assessor's Manual
- Tax Director's Teaching Manual

Newsletter

North Dakota Sales Ratio Report

Proceedings of the State Board of Equalization

Statistical Reports

Tax Law and Administrative Rules
- Coal Conversion Tax
- Coal Severance Tax
- Property Tax

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Many of these resources are available on our web site. Please visit us online at **www.nd.gov/tax** or contact us at:

Write:

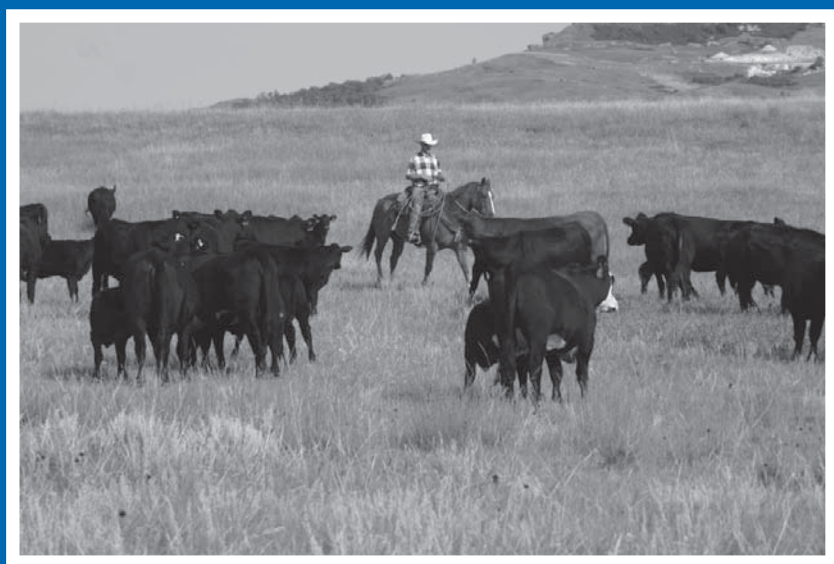
**Office of State Tax Commissioner**
**600 E. Boulevard Ave., Dept. 127**
**Bismarck, ND 58505-0599**

E-mail:

**taxinfo@nd.gov**

Call:

**701.328.7088**

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