



*North Dakota*

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

# **51st Biennial Report**

**For the Biennial Period of  
July 1, 2011 through June 30, 2013**



***North Dakota...***

***...Building Together for Our  
Tomorrow***



**OFFICE OF STATE TAX COMMISSIONER**  
STATE OF NORTH DAKOTA

CORY FONG  
TAX COMMISSIONER

November 29, 2013

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 Fifty-first Biennial Report of the Tax Commissioner.

The report covers the operations of the Office of State Tax Commissioner for the period July 1, 2011 through June 30, 2013, and is submitted pursuant to North Dakota Century Code §§ 54-06-04 and 57-01-02.

Sincerely,

A handwritten signature in black ink, appearing to read "Cory Fong".

CORY FONG  
TAX COMMISSIONER

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# **The Office of State Tax Commissioner**

## ***Accountability and Customer Service Initiatives***

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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 2011-2013 biennium, the Office of State Tax Commissioner was authorized 134 permanent staff members – a reduction of 23 positions from the 1995 peak.

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### **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 2011-2013 biennium:

#### **Property Tax Relief**

The 2011 Legislature provided for significant property tax relief through buying down the local school mill levies. The program was funded at \$342 million, which allowed the state to continue the 75 mill buy-down reduction in school district mill levies for all districts in the state.

In 2013, the Legislature provided for additional \$856 million in property tax relief.

The Homestead Tax Credit for Senior Citizens and Disabled Persons was expanded to include raising the income threshold, adding another income bracket, and raising the value of assets.

#### **Integrated Tax System**

In May 2012 the Tax Department successfully completed migration to GenTax® Version 8. This upgrade provides a more robust and enhanced system. Some of the notable enhancements include:

- The servers can now take advantage of newer architecture features including multi-core processes and 64-bit operating systems.
- The upgrade enables the department to take part in a data exchange of fraud information with other GenTax® states in order to stop fraud more quickly.
- New security standardizes the various systems within GenTax® and applies default security to all items, ensuring that all processes and items are locked down appropriately.
- End users are now able to modify FileNet image properties within GenTax® using a new custom control that was built along with the Version 8 upgrade.

- Taxpayer Access Point (TAP), an integrated web solution, was completely redesigned to support multiple end-user operating systems and browser platforms. TAP allows web solutions that are compatible with PC, Mac, or mobile devices. TAP allows the real-time lookups and instant feedback to users via alerts, errors, and calculations.
- Version 8 provides enhanced developer tools to IT staff, allowing the department to configure returns and worksheets that mirror the paper return or document. Other new options have made it much easier for end users to read and interpret data more efficiently within the system.
- With Version 8 the Tax Department was able to retire its old External Data system in GenTax® by converting the data into the GenTax® Data Warehouse system. Data Warehouse serves as an integrated storage and management solution for housing data received from external sources.

### **E-File Services**

For the 2013 filing season, about 83 percent of the eligible individual income tax returns were filed electronically with the Office of State Tax Commissioner. This represents growth of just over 10 percent compared to the number of e-file returns received during 2012. When the 2013 returns are compared to 2011, e-file grew by nearly 22 percent. And, since 2008, e-file returns have grown by nearly 79 percent. E-file is clearly the preferred method of the majority of income taxpayers for filing their individual income tax returns.

During the 2013 filing season, 13 companies supported North Dakota's individual income tax forms in their e-file software.

The Department continues to partner with private industry and the IRS in the Free File Alliance. This partnership offers free e-file opportunities to about 70% of North Dakota taxpayers at no cost to the Tax Department. For the 2013 filing season, 6 companies supported Free File for North Dakota's individual income tax returns.

The Tax Department continued to promote individual income tax e-file through news releases, YouTube, and FaceBook.

### **Expanded E-File Services**

The Taxpayer Access Point (TAP), a module within GenTax®, provides secure, web-based self-service functions for taxpayers to use to view their

account status, review filing and payment history, and to file returns and pay tax due online.

In 2010, the Tax Department began offering Modernized E-File (MeF), a web-based electronic filing system, for business tax types: Corporations, Partnerships, and Subchapter S Corporations. The MeF platform offers taxpayers the convenience of electronically filing their state and federal tax returns simultaneously.

For the 2013 filing season, six software vendors supported the Corporation tax type and five supported the Partnership and Subchapter S Corporation tax type. During the 2013 filing season, nearly 35 percent of Corporation returns were e-filed using the MeF platform. In addition, over 51 percent of Partnership and over 52 percent of S Corporation returns were e-filed. This reflects about 48 percent of those returns filed using the MeF option.

### **Compliance Initiative**

The Tax Department instituted a renewed focus on compliance during the 2011-13 biennium. The compliance initiative includes three main areas:

- a review of existing Department databases
- researching information from other agency databases, and
- exploring potential projects with other agencies.

The GenTax® system is critical to the successful utilization of existing and new sources of information by forming data warehouses and performing comparisons to identify leads for follow up.

The Department reclassified an existing position and in October 2011 hired the first of two Compliance Officers dedicated to enhance compliance efforts. The second Compliance Officer position was authorized by the 2011 Legislature through Senate Bill 2006 and was added to the Department on September 11, 2012 by the Emergency Commission. In addition to these two positions, staff members from throughout the Department assist with discovery and other compliance projects as part of their regularly assigned duties. During the 2011-2013 Biennium, efforts related to discovery accounted for \$8.6 million in additional revenue for income tax and sales tax.

### **Contractor One-Stop Shop**

During the 2011-13 biennium, the Office of State Tax Commissioner participated in the One-Stop Contractor shop. This program was an effort

to educate contractors of their responsibilities for collecting and remitting the appropriate taxes.

The department registered 172 taxpayers, issued 149 sales tax accounts and 139 income tax withholding accounts. The Department's participation gave it the opportunity to educate contractors of out-of-state businesses on applicable tax-related laws and filing requirements, and register taxpayers for sales and use tax and income tax withholding.

The Tax Department worked with a number of agencies to establish a Contractor Compliance team. This multi-agency Contractor Compliance task force inspected 89 sites involving 394 contractors. The task force found only 52 unlicensed contractors. Work was suspended for 18 unlicensed contractors.

### **Special Fuel Dyed Fuel Program:**

The Tax Department worked with the Highway Patrol and the Department of Transportation to conduct joint dyed diesel fuel compliance checks throughout the state. The purpose of the compliance effort is to make sure that drivers using North Dakota's roads are paying the appropriate taxes. Some drivers fill their diesel vehicle's tank with fuel that has not been taxed at the full rate.

The cooperative effort of the agencies involved enabled the state to stop and test the tanks of diesel vehicles traveling on state, county or local roadways. During the dyed fuel checks, 3,348 vehicles were tested and 70 samples were taken for possible violation. Of the possible violations, 63 were confirmed violations. The rate of violations at different inspection locations ranges from 0 percent up to over 18 percent. The violations are overwhelmingly found in personal and agricultural pickup trucks.

### **Additional Customer Service Initiatives**

- Developed a web-based Individual Income Tax Fillable Forms option for taxpayers to file basic, simple state individual income tax returns directly with the Tax Department.
  - Canadian requests for refund of sales tax have resulted in 22,961 requests, which included 352,348 individual receipts reviewed. The Department issued \$2,992,691 in refunds and denied another \$457,915 in refund requests.
  - Collaborated with the North Dakota Indian Affairs Commission to produce a new publication, North Dakota Tax Information for Native Americans and Tribal Governments. The publication is a comprehensive resource addressing a number of state tax types that apply to Native Americans and Tribal Governments.
- Joint North Dakota and IRS seminars to educate taxpayers and property owners affected by the 2011 flood in Bismarck and Minot.
  - Worked with the Tax Counseling for Elderly volunteers to promote their free individual income tax filing services.
  - Marketed the Homestead Credit and Renters Refund Programs through a direct mail coupon mailer service.
  - Conducted CPA Forums in the six major cities, and various seminars and workshops around the state regarding North Dakota's taxes.

## 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

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## Mission Statement

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

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## 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.

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## 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.

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### **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 2011-2013 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.

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### **Information Management and Technology Division**

The Information Management and Technology Division is responsible for maintaining the operational infrastructure for the Tax Department and includes three sections: Information Technology, Tax Processing, and Data Entry.

The Information Technology section is responsible for maintaining the integrated tax system (Gentax®) and all other software programs used throughout the Tax Department; developing strategies for implementation of tax legislation, electronic filing, security of federal and state data, Tax Department web site; and supporting the PCs and peripheral devices used in the Department.

The Tax Processing and Data Entry sections are responsible for processing all correspondence, including tax returns and payments. These sections

handle all incoming and outgoing mail, printing, validating, imaging, data entry, and storage of all tax records. They are also responsible for developing specifications for substitute forms and 1D/2D barcodes, and working with the software developer community to produce high quality tax preparation software products.

During the 2011-2013 biennium the Information Management and Processing Division included 19 full time positions and staffs up to 25 additional temporary staff during peak times. These positions include the director, seven information technology staff, four data entry staff, and seven processing staff.

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### **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. The staff attorneys also analyze federal tax proposals and the impact these proposals may have on state tax laws.

During each North Dakota legislative session, the Legal Division develops and drafts bills for the Tax Commissioner to be presented to the Legislature, assists legislative committees by providing information regarding various legislative proposals, 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 assists the Tax Commissioner in issuing rules, regulations or policies regarding them. 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.

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 2011-2013 biennium the Legal Division included five full-time positions: three attorneys, one collections officer, and one legal assistant.

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## **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 as well as administering agency-wide functions of purchasing goods and services and providing administrative support. 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, purchases office supplies and equipment, contracts or secures maintenance services, procures the printing of forms and brochures, and prepares the leases for office space.

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 2011 - 2013 biennium, the Fiscal Management Division included eight full-time positions: four account technicians, one Accounting/Budget Specialist, one Administrative Assistant, one Purchasing Agent and one Accounting Manager/Chief Fiscal Officer.

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## **Tax Administration Division**

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

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 and Financial Institution Tax imposed on entities doing business in this state.

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.

In addition to audit functions, the section also provides taxpayer assistance with questions on tax policy, filing issues, and billing questions, as well as administers the division's Voluntary Disclosure Agreement program for income taxes.

### **Individual Income Tax and Withholding**

The Individual Income Tax and Withholding section administers the state's income tax law for individuals, partnerships, S-corporations, estates, trusts, and small businesses. The section conducts audit reviews of taxpayers' and business 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.

The section is responsible for obtaining compliance from all employers responsible for withholding income tax from employees and small businesses responsible for remitting information returns. In addition to employers withholding, the section administers the new oil and gas royalty withholding requirements on nonresidents.

The section provides taxpayer assistance related to the filing of financial institution tax returns and the associated administrative duties. The section also provides taxpayer assistance via phone, e-mail and office visits 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***

The Motor Fuels Tax Section is responsible for assuring 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 processes refunds submitted by railroad, agricultural, and industrial consumers that use fuel in unlicensed equipment for off-road purposes. The section also processes refunds for fuel used in emergency medical services operation vehicles. The section provides administration of the Motor Fuel Tribal Agreements for the four Tribes in the state. The section also assists the Highway Patrol in conducting fuel inspections and processing violation notices for the dyed fuel program.

#### ***Oil and Gas***

The Oil and Gas Tax Section is responsible to assure that all tax returns are filed timely and accurately, provides newsletters, guidelines, rules and regulations, and provides taxpayer assistance. The section performs compliance reviews and audits of oil and gas companies conducting business in the state. The section provides administration of the Oil and Gas Agreement with the Three Affiliated Tribes for oil production on the Fort Berthold Reservation.

### **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.

### **Registration**

The Tax Registration section is responsible for interpreting and enforcing statutes by determining permit and licensing requirements. Determining compliance and corporate officer liability bond amounts, establishing filing frequency requirements, and managing taxpayer demographic information are also primary functions of the section. Since activities are performed for multiple tax types, maintaining a working knowledge of each tax type is required.

In addition to managing the registration requirements for the Department, the Tax Registration section also serves as the first point of contact for questions related to the WebFile systems for Sales and Use Tax and Income Tax Withholding. Another primary duty of the section is to examine and process refunds of sales tax to Canadian residents. Recently, staff members have also begun to assist in discovery and compliance projects as part of the Department's "Compliance Initiative".

### **Taxpayer Services**

The Taxpayer Services section is responsible for the administration of tax rules by processing edit checks and business rules on tax returns across multiple tax types. Processes involved in accomplishing these tasks include managing a work item inventory, correcting reported tax information that may result in a difference in the refund or tax due amount, and providing taxpayer assistance through direct communication with the taxpayer to explain changes that were made to their return. Providing education to taxpayers is also a crucial part of the section to prevent taxpayers from making the same errors in the future.

An ongoing function of the Taxpayer Services section is to review and evaluate repetitive problems that exist and initiate new edit checks or business rules to mitigate them. This includes communication with vendors to ensure their software is compliant with Department standards and requirements. The goal of the section is to

ensure that tax data and information collected is accurate and complete prior to issuing refunds or credit offsets to other state agencies. Through this process, staff members will often identify potential audit situations that will be referred to the appropriate audit section within the Department.

In the 2011-2013 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.

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### **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.

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.

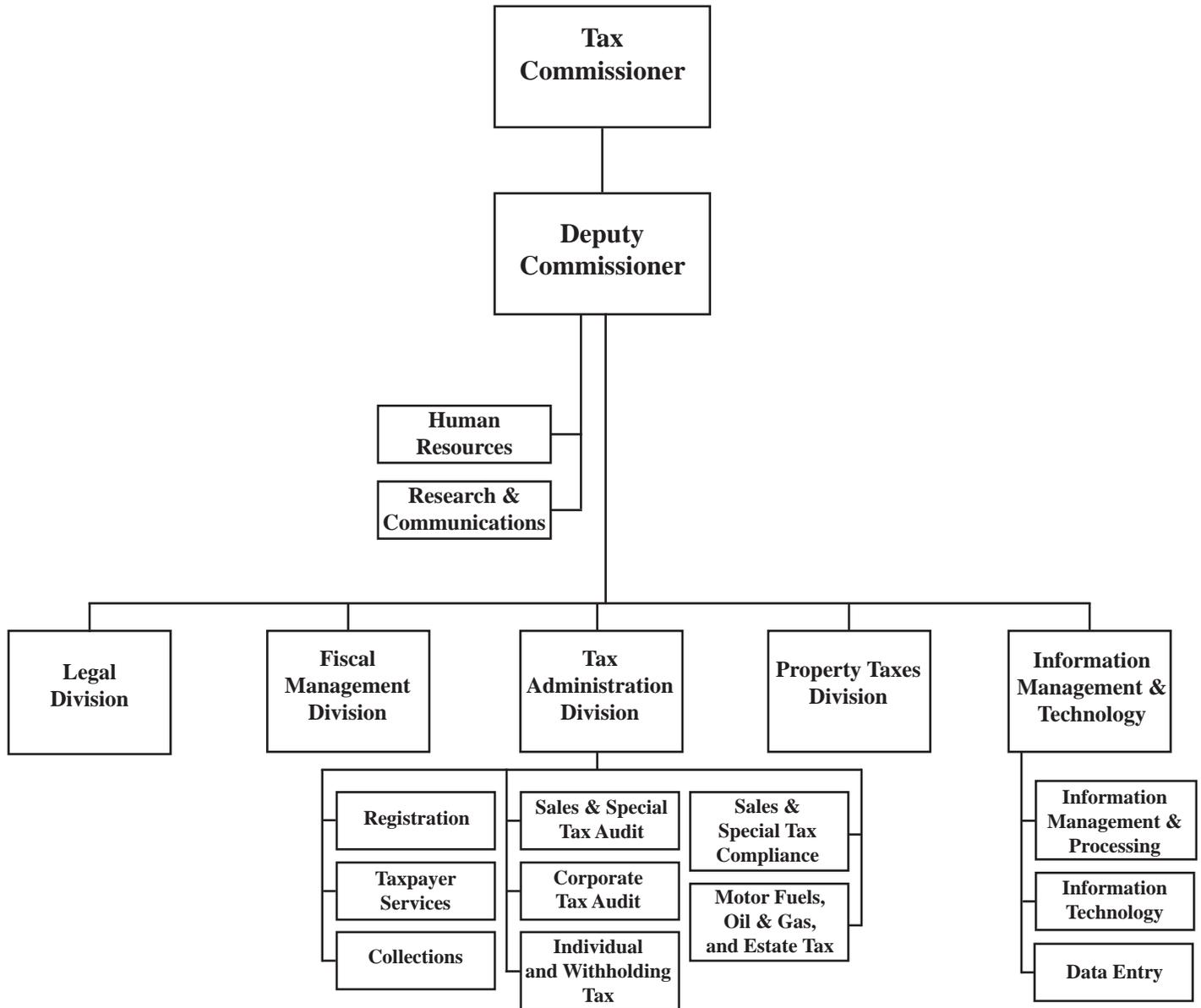
The Utilities Tax Section calculates and collects electric generation, distribution, and transmission taxes. The State Treasurer distributes those taxes to the political subdivisions.

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 2011-2013 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 2013



## Future Directions

Legislation enacted during the 2013 Legislative Assembly impacts the administration of some of North Dakota's major taxes during the 2013-2015 biennium and in the years beyond. The following summarizes significant tax legislation enacted by the 2013 Legislature.

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### Broad-Based Property Tax Relief:

- The 2013 Legislature again expanded the property tax relief program through direct payments to school districts. The effect of this expanded program is state-paid property tax relief that will reduce property-owners tax liabilities by as much as 125 mills, or up to 40 percent. This will result in \$656 million in combined relief for existing and expanded programs for tax years 2013 and 2014 (property taxes payable in 2014 and 2015). The Legislature enacted an additional \$200 million in relief through a 12 percent tax credit for all classes of property, for two years, starting with 2013 property taxes (payable in 2014).

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### Across-the-Board Income Tax Relief:

- The 2013 Legislature again enacted across-the-board income tax rate relief. Starting with tax year 2013, the individual income rates were reduced 19.3 percent in all tax brackets. Additionally, the 2013 Legislature reduced corporation income tax rates 11.9 percent across-the-board. Coupled with the property tax relief (see above) the overall tax relief enacted by the 2013 Legislature and signed into law by the Governor reduced the tax burdens on North Dakota residents and businesses by a record \$1.1 billion for the 2013-15 biennium.

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### Taxpayer Access Point (TAP):

- Taxpayer Access Point (TAP) is a component within the GenTax system that provides for secure taxpayer self-service functions via the Internet. During the 2013 Legislative Session, the Department was appropriated \$1.0 million to design and implement additional functionality within TAP to include

replacing existing WebFile applications for sales and use tax and income tax withholding. In addition to the replacement of the WebFile systems, the project will include creating an electronic filing option for restaurant and restaurant and lodging taxes and provide a method for businesses to electronically enter and submit W2 and 1099 information. Additional functionality will include the ability for a taxpayer to update demographic information through the TAP portal.

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### Sales Taxes:

- The Legislature expanded the existing sales tax exemption that applies to certain property used to process gas from a North Dakota oil or gas well. The intent of this expanded exemption is to encourage capture and use of gas and to reduce the amount of gas flared during the production of crude oil.
- Firework sales will be allowed during the New Year's celebration period from December 26 through January 1 each year.
- Refunds will be allowed for state sales taxes paid on certain qualifying purchases of replacement residential property damaged or destroyed by river flooding during 2011.
- Retailer compensation provided to sales tax permit holders for collecting sales tax and filing returns has been expanded. Effective for tax periods beginning July 1, 2013, all sales and use tax permit holders will receive 1 ½ percent compensation up to \$110 on each return.
- Beginning in January 2014, retailers who file monthly sales tax returns will be required to file electronically.

- Beginning in January 2014, a new emergency services fee will be imposed on the sale of prepaid wireless telecommunications service. The fee will be two percent of the selling price of the service and will be collected by the retailer.

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### Income Taxes:

- The Housing Incentive Fund income tax credit was extended for two additional tax years, with a ceiling of \$20 million in total credits allowed for tax years 2013 and 2014.
- Some new limitations were placed on Renaissance Zone income tax provisions clarifying and restricting the income allowed to be exempted
- A new withholding provision was enacted requiring income tax withholding at the top marginal tax rate for certain nonresident recipients of oil and gas royalty payments. This withholding requirement is effective beginning with calendar year 2014 payments.
- A new income tax credit is allowed to a corporation that makes a contribution to fund tuition scholarships under the Rural Leadership North Dakota Program.
- The 2013 Legislative Session repealed the North Dakota financial institution tax. Starting with the 2013 tax year, these entities are subject to the North Dakota income tax.
- The exclusion for long-term capital gain and qualified dividend income was increased from thirty to forty percent.

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### Property Tax:

- The Homestead Credit program was expanded increasing the maximum qualifying income to \$42,000 and increasing the maximum assets allowed to \$500,000 including the value of the homestead.

- The Disabled Veteran Property Tax Credit program was expanded to allow a credit on up to \$6,750 of taxable value of the fixtures, buildings, and improvements of the homestead.
- The provisions regarding the confidentiality of information contained on a statement of full consideration were repealed.
- Requirements for statistical information to be contained on property tax statements, and notices of mill levy increases were expanded.

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### Oil taxes:

- An oil production incentive was expanded that provides for an exemption from the oil extraction tax for production from a horizontal stripper well, defined by production of up to 35 barrels of oil per day, for deep wells (an increase from 30 barrels of oil per day).
- A reduced oil extraction tax rate of 2% is authorized for qualifying new wells drilled outside the Bakken and Three Forks formations. The reduced rate applies to the first seventy-five thousand barrels produced in the first eighteen months after the well's completion.
- The 2013 Legislature changed the distribution formula for oil and gas tax revenues. The formula change increases the amount of revenue received by counties, cities, townships and schools in the areas from which oil and gas production occurs. The Legislature also increased the amount of revenue distributed through the impact grant fund to areas impacted by oil and gas production.

## Comparative Statement of Collections for the 2009-2011 Biennium and the 2011-2013 Biennium

<u>Tax Type</u>	<b>2009-2011</b>	<b>2011-2013</b>	<b>Increase or Decrease</b>	
	<b>Biennium</b>	<b>Biennium</b>	<b>Dollars</b>	<b>Percent</b>
Sales and Use Taxes	\$1,377,610,400	\$2,388,294,763	\$1,010,684,363	73.37%
Individual Income Tax	734,101,294	1,050,065,224	315,963,930	43.04%
Corporation Income Tax	234,364,296	385,814,247	151,449,951	64.62%
Oil and Gas Taxes	1,560,544,041	4,068,542,204	2,507,998,163	160.71%
Coal Taxes	72,033,506	72,325,255	291,749	.41%
Motor Fuels Taxes	323,201,313	417,220,709	94,019,396	29.09%
All Other Taxes and Fees	405,033,561	577,961,024	172,927,463	42.69%
<b>Total Net Collections</b>	<b>\$4,706,888,411</b>	<b>\$8,960,223,424</b>	<b>\$4,253,335,013</b>	<b>90.36%</b>

**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, robust commodity prices, record level population growth, and a solid, 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 18% beginning with tax year 2011 and an additional 19% beginning with tax year 2013. Despite the rate reductions, biennial revenues increased nearly 43% over the previous biennium.

**Oil and Gas Taxes:** The growth in this category is due to the high world oil prices and explosive 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 financial institutions tax collections.

## Statement of Collections 2011 - 2013 Biennium

Description	Fiscal Year 2012			Fiscal Year 2013			2011-13 Biennium Net Total
	Gross Collections	Refunds	Net Collections	Gross Collections	Refunds	Net Collections	
Sales & Use Tax	\$1,138,101,220.39	\$ 16,836,811.43	\$ 1,121,264,408.96	\$ 1,293,391,056.99	\$24,709,348.58	\$1,267,030,353.74	\$ 2,388,294,762.70
Motor Vehicle Excise Tax (1)	211,006.90	67.48	210,939.42	162,005.87	494.07	161,511.80	372,451.22
City Occupancy Tax	3,507,966.04	69,216.88	3,438,749.16	3,767,350.20	16,108.26	3,751,241.94	7,189,991.10
City Sales Tax	191,754,625.35		191,754,625.35	206,247,608.54		206,247,608.54	398,002,233.89
City Restaurant and Lodging Tax	5,478,370.93		5,478,370.93	5,801,405.47		5,801,405.47	11,279,776.40
City Motor Vehicle Rental Tax	192,916.85		192,916.85	197,510.57		197,510.57	390,427.42
Individual Income Tax	532,132,062.18	100,000,000.00 *	432,132,062.18	733,933,161.51	116,000,000.00 *	617,933,161.51	1,050,065,223.69
Corporate Income Tax	227,746,771.09	29,000,000.00 *	198,746,771.09	229,067,476.16	42,000,000.00 *	187,067,476.16	385,814,247.25
Financial Institutions Tax	13,869,780.01	451,127.00	13,418,653.01	20,434,420.81	215,308.38	20,219,112.43	33,637,765.44
Cigarette Tax (Cities)	1,536,055.40	5,801.51	1,530,253.89	1,530,675.08	5,563.27	1,525,111.81	3,055,365.70
Cigarette Tax (Tribe)	75,371.41		75,371.41	75,876.28		75,876.28	151,247.69
Cigarette Tax (GF)	21,023,989.00	79,287.44	20,944,701.56	20,947,647.01	76,031.58	20,871,615.43	41,816,316.99
Tobacco Tax	5,670,932.93	7,621.08	5,663,311.85	6,253,704.79	9,684.30	6,244,020.49	11,907,332.34
Oil & Gas Gross Production Tax	795,681,003.15		795,681,003.15	1,130,369,448.75		1,130,369,448.75	1,926,050,451.90
Oil Extraction Tax	880,359,216.08	15,237,587.74	865,121,628.34	1,290,519,501.94	13,149,378.41	1,277,370,123.53	2,142,491,751.87
Telecommunications Tax	12,444,417.18	229,208.37	12,215,208.81	11,584,060.51	238.41	11,583,822.10	23,799,030.91
Wholesale Liquor/beer Tax	8,530,055.83	6,628.55	8,523,427.28	9,234,020.47	12,065.74	9,221,954.73	17,745,382.01
Estate Tax	1,112.32		1,112.32	27,500.00		27,500.00	28,612.32
Miscellaneous Remittances	9,347.39		9,347.39	9,333.90		9,333.90	18,681.29
Coal Severance Tax	11,001,917.96		11,001,917.96	10,986,898.41		10,986,898.41	21,988,816.37
Coal Conversion Tax	25,430,529.00		25,430,529.00	24,905,909.27		24,905,909.27	50,336,438.27
Transmission Line Tax	7,391,797.60		7,391,797.60	8,142,703.90		8,142,703.90	15,534,501.50
Music and Composition Tax	147,882.50		147,882.50	132,391.36		132,391.36	280,273.86
Sales & Use Tax Cash Bonds	864,762.61	31,421.11	833,341.50	681,498.55	137,803.55	543,695.00	1,377,036.50
Fuel Dealers & Inspection Fees	344,828.93		344,828.93	358,377.04		358,377.04	703,205.97
Motor Vehicle Fuel Tax	98,389,813.11	754,000.00 *	97,635,813.11	101,077,422.85	586,000.00 *	100,491,422.85	198,127,235.96
Special Fuel Tax	107,915,416.42	654,000.00 *	107,261,416.42	112,416,056.20	584,000.00 *	111,832,056.20	219,093,472.62
Motor Fuel Tax - Cash Bond	23,980.00	1,480.00	22,500.00	9,490.00	103,990.00	(94,500.00)	(72,000.00)
Non-game Wildlife Fund	21,970.12		21,970.12	21,253.00		21,253.00	43,223.12
Centennial Tree Trust Fund	22,744.55		22,744.55	20,724.34		20,724.34	43,468.89
Organ Transplant Support Fund	15,478.30		15,478.30	18,789.82		18,789.82	34,268.12
Airline Tax	216,968.07		216,968.07	203,527.15		203,527.15	420,495.22
Provider Assessment	4,719,614.00		4,719,614.00	5,482,321.70		5,482,321.70	10,201,935.70
<b>TOTAL COLLECTIONS</b>	<b>\$ 4,094,833,923.60</b>	<b>\$ 163,364,258.59</b>	<b>\$ 3,931,469,665.01</b>	<b>\$ 5,228,011,128.44</b>	<b>\$ 197,606,014.55</b>	<b>\$ 5,028,753,759.22</b>	<b>\$ 8,960,223,424.23</b>

\* 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 \$132,586,348.63 in FY 12 and \$141,742,725.00 in FY 13.

**Net Collections  
For Fiscal Years Ended June 30, 2004 to 2013**

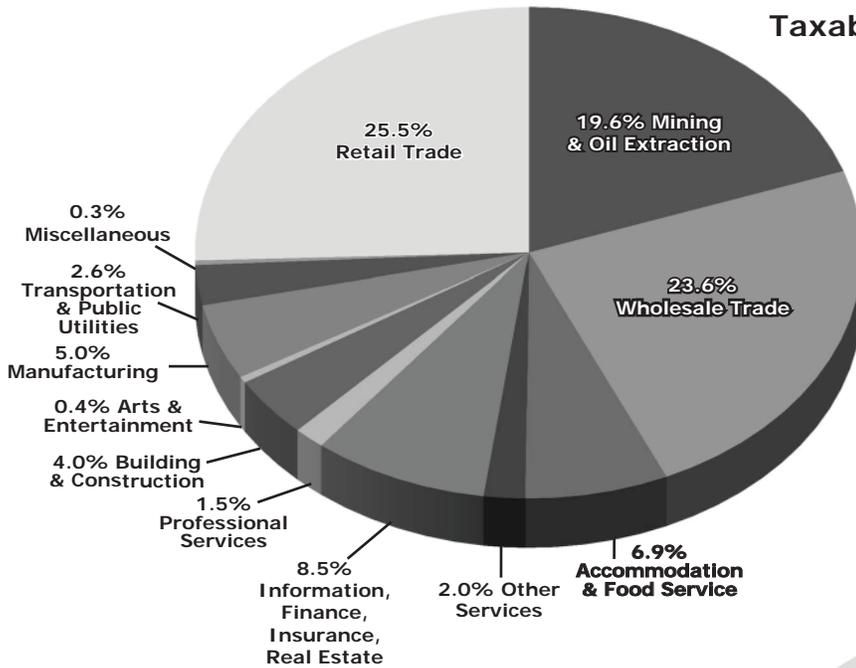
TAX TYPE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Sales and Use Taxes (1)	\$368,703,306(2)	\$411,791,675(2)	\$429,031,992(2)	\$486,141,621(2)	\$530,428,326(2)	\$607,340,013(2)	\$602,646,177(2)	\$775,358,375(2)	\$1,121,475,348(2)	\$1,267,191,866(2)
Individual Income Tax	214,145,899	241,319,731	274,621,741	318,433,494	308,889,352	378,135,463	304,252,924	429,848,371	432,132,062	617,933,162
Corporation Income Tax	40,257,083	62,669,889	111,789,587	119,955,749	140,737,698	98,958,239	87,874,592	146,489,704	198,746,771	187,067,476
Oil Extraction Tax	25,638,914	45,566,628	61,767,934	67,187,829	182,366,018	185,814,920	280,611,437	496,749,735	865,121,628	1,277,370,124
Gross Production Tax	47,519,075	74,046,219	104,378,689	118,782,343	209,457,069	221,462,334	302,099,211	481,083,658	795,681,003	1,130,369,449
Coal Taxes (3)	40,556,785	37,723,016	39,799,251	40,900,014	39,047,086	41,640,124	37,660,601	34,372,905	36,432,447	35,892,807
Motor Fuel Taxes (4)	119,934,491	122,239,373	134,124,474	139,970,254	144,001,968	144,502,484	151,733,474	171,467,839	204,897,230	212,323,479
All Other Taxes & Fees (5)	124,855,264	135,508,194	147,982,117	158,545,771	165,700,036	177,699,228	183,666,212	220,973,195	276,983,176	300,605,396
<b>TOTAL NET COLLECTIONS</b>	<b>\$981,610,817</b>	<b>\$1,130,864,726</b>	<b>\$1,303,495,785</b>	<b>\$1,449,917,075</b>	<b>\$1,720,627,554</b>	<b>\$1,855,552,805</b>	<b>\$1,950,544,629</b>	<b>\$2,756,343,782</b>	<b>\$3,931,469,665</b>	<b>\$5,028,753,759</b>

- (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 \$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, \$99,805,028 in FY 11, \$132,586,349 in FY 12, and \$141,742,725 in FY 13.
- (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 lodging 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.

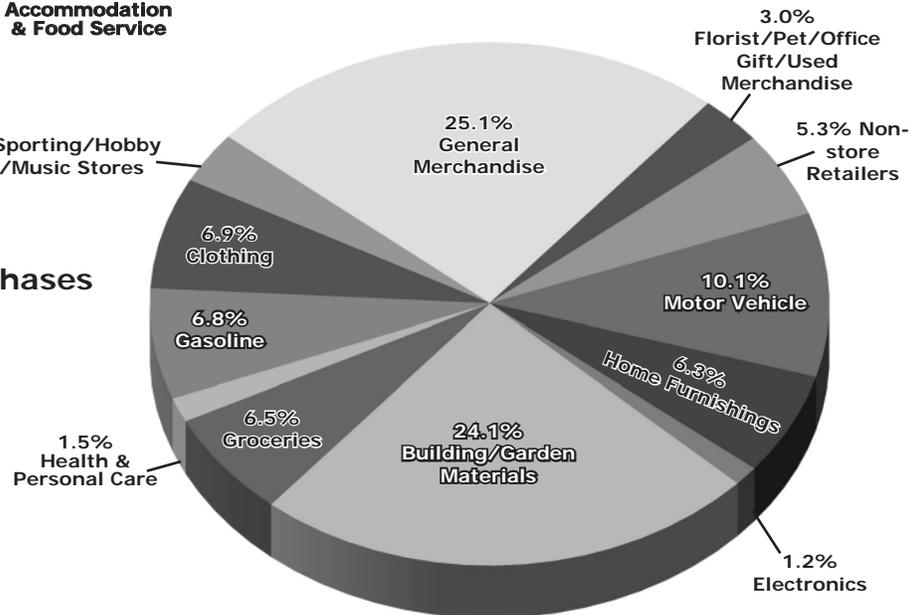
SOURCE: Comparative Statement of Collections, Office of State Tax Commissioner.

## Taxable Sales and Taxable Purchases in the 2011-2013 Biennium

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



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



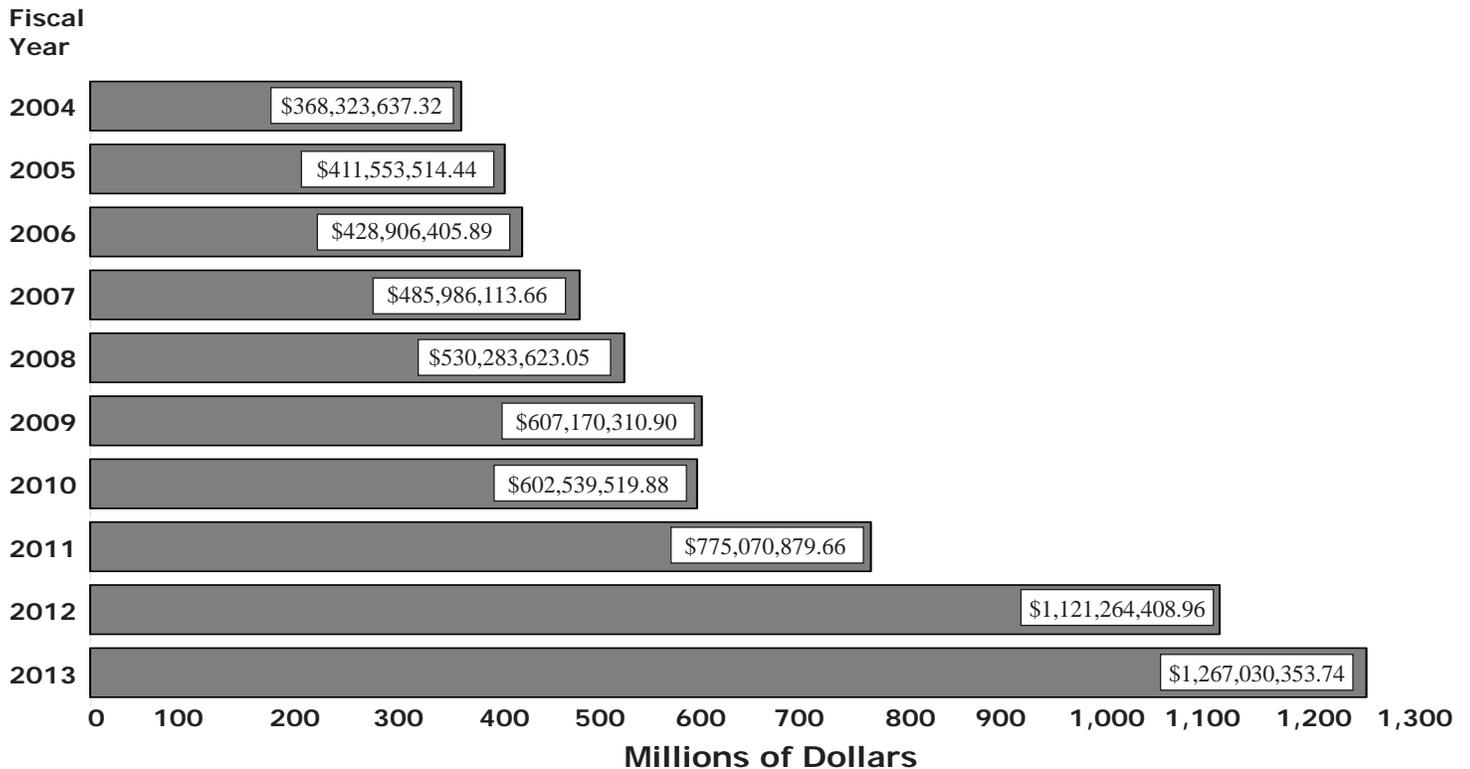
SOURCE: North Dakota Sales and Use Tax Quarterly Statistical Reports

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, 2004 to 2013



### Distribution of Sales Tax Collections

	<u>Total Revenues</u>	<u>State General Fund</u>	<u>State Aid Distribution Fund</u>
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
Fiscal Year 2012	1,121,264,408.96	1,031,442,016.04	89,822,392.92
Fiscal Year 2013	1,267,030,353.74	1,165,535,777.18	101,494,576.56

## 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.

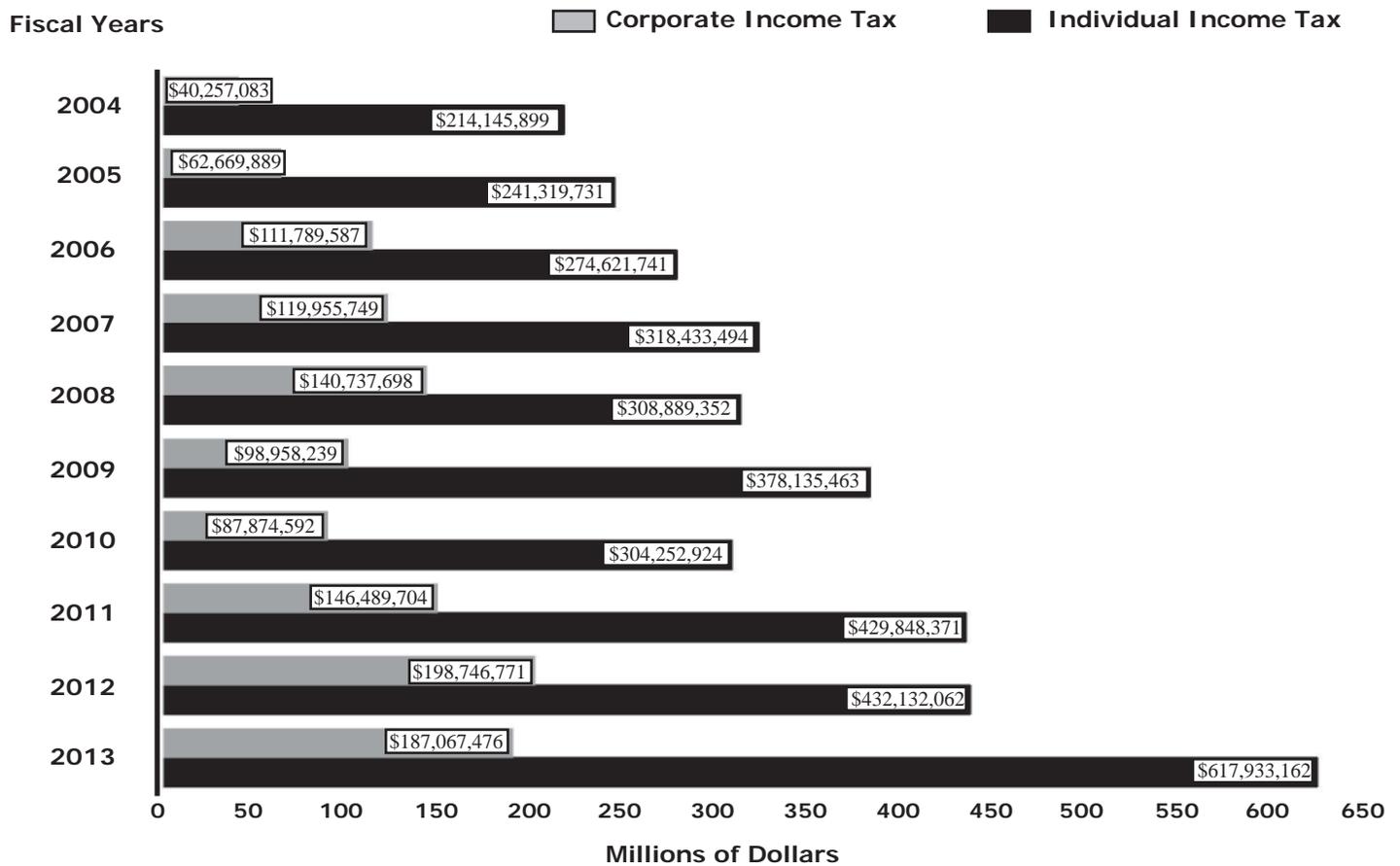
Effective July 1, 2003, the sales tax rate was increased to 6% for hotel and motel rooms. The receipts from this additional 1% was to assist with the promotion of the various Lewis and Clark Bicentennial events being held throughout the state. This tax expired June 30, 2007.

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.

Effective July 1, 2011, gross receipts from coin-operated amusement machines became exempt from sales tax. Also exempted was the machinery and equipment used in a new coal mine and the construction or expansion of oil refineries and gas gathering compressing and processing facilities.

## Net Individual and Corporate Income Tax Collections During Fiscal Years Ended June 30, 2004 to 2013



### 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% of North Dakota taxable income, a 12.3% reduction. For tax years 2011 and 2012, tax rates ranged from 1.51% to 3.99% of North Dakota taxable income, a reduction of 17.9%. For tax years beginning with 2013, the tax rates range from 1.22% to 3.22% of North Dakota taxable income, a reduction of 19.3%. In the past three biennia, individual income tax rates have been reduced nearly 50%, yet collections continue to increase due to growth in the state's economy.

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

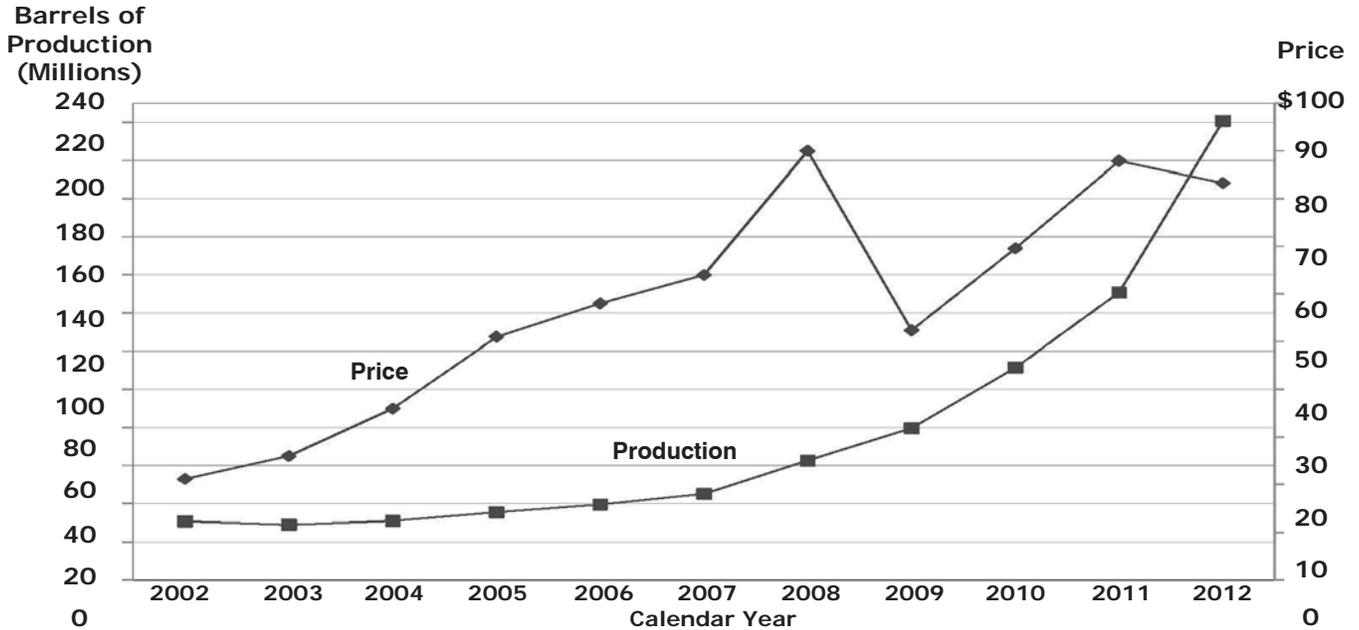
### Corporate Income Tax

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 2011 and 2012, tax rates ranged from 1.68% to 5.15%. For the tax years beginning with 2013, tax rates range from 1.48% to 4.53%. In the past three biennia, corporate income tax rates have been reduced nearly 40%.

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 2002 to 2012

Production: North Dakota Industrial Commission Oil Statistics  
Price: Average Tesoro Posted Field Price for North Dakota  
and Tax Department Records



### Oil and Gas Gross Production and Oil Extraction Tax Revenues 2011-2013 Biennium

	<u>Fiscal Year 2012</u>	<u>Fiscal Year 2013</u>	<u>2011-2013 Biennium</u>
<b>Net Collections</b>			
Oil & Gas Gross Production Tax	\$ 795,681,003	\$1,130,369,449	\$ 1,926,050,452
Oil Extraction Tax	865,121,628	1,277,370,124	2,142,491,752
<b>Total</b>	<b>\$1,660,802,631</b>	<b>\$2,407,739,572</b>	<b>\$ 4,068,542,204</b>
<b>Distributions</b>			
State General Fund			\$ 300,000,000
Legacy Fund			1,271,057,344
Counties/Cities/School Districts			256,030,545
Tribe			183,578,144
Foundation Aid Stabilization Fund			195,171,178
Common Schools Trust Fund			195,171,178
Resources Trust Fund			390,342,357
Oil & Gas Impact Grant Fund			100,000,000
Oil & Gas Research Fund			4,000,000
Strategic Investment & Improvements Fund			786,998,031
Property Tax Relief Fund			341,790,000
State Disaster Fund			22,000,000
<b>Total</b>			<b>\$ 4,046,138,777</b>

*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 2012, gas production was taxed at the rate of 11.12¢ per 1,000 cubic feet (MCF). In fiscal year 2013, the tax rate was 11.43¢ per MCF.

### **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.

### **Legacy Fund**

The citizens of North Dakota approved a ballot measure to change the State's Constitution requiring 30% of all oil and gas tax revenues be deposited to the state's Legacy Fund. The Legacy Fund received \$1.271 billion in the 2011-13 biennium.

### **Tribal/State Oil & Gas Tax Revenue Sharing**

Beginning in Fiscal Year 2009, the Legislature authorized the Governor to enter into an agreement sharing the tax revenue from oil and gas production within the Fort Berthold Indian Reservation. In the 2011-13 biennium, this agreement resulted in \$183.6 million in revenue to the Three Affiliated Tribes.

## Coal Conversion Tax 2011-2013 Biennium

### Kilowatt Hours Produced During the 2011-2013 Biennium

	<u>Fiscal Year 2012</u>	<u>Fiscal Year 2013</u>
Total Kwh Produced	27,506,865,889	27,706,261,941

### Distribution of Coal Conversion Tax Revenue - 2011-2013 Biennium

<u>Distribution Fund</u>	<u>Fiscal Year 2012</u>	<u>Fiscal Year 2013</u>
Counties	\$ 5,932,403.26	\$ 6,004,620.74
State General Fund <sup>1</sup>	<u>19,498,125.74</u>	<u>18,901,288.53</u>
Total Revenue Collected	\$25,430,529.00	\$24,905,909.27

<sup>1</sup> Five percent of funds allocated to the State General Fund are allocated to the Lignite Research Fund

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 2011-2013 Biennium

### Tonnages Severed During the 2011-2013 Biennium

Taxable Tons Severed:

<b>County</b>	<b>Fiscal Year 2012</b>	<b>Fiscal Year 2013</b>
Bowman	69,727	122,419
McLean	7,585,934	7,819,948
Mercer	15,791,467	15,577,398
Oliver	4,366,252	4,284,235
Williams	9,576	10,935
Total Taxable Tons Severed	27,822,956	27,814,935

### Distribution of Coal Severance Tax Revenue - 2011-2013 Biennium

<b>Distribution Fund</b>	<b>Fiscal Year 2012</b>	<b>Fiscal Year 2013</b>
Counties (70%)	\$7,311,400.89	\$7,301,420.36
Land Board (30%)	3,133,457.52	3,129,180.15
Lignite Research (additional 2¢ per ton)	<u>557,059.55</u>	<u>556,297.90</u>
Total Revenue Collected	\$11,001,917.96	\$10,986,898.41

## 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.

	2009-2011 Biennium		2011-2013 Biennium	
	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
Transmission Line Tax	\$27,558.00	\$27,558.00	\$27,558.00	\$31,411.74

SOURCE: Property Tax Division, Office of State Tax Commissioner

## Electric Generation, Distribution, and Transmission Taxes

Taxes Certified for Collection for the Years: \*

	<u>2011</u>	<u>2012</u>
Electric Distribution Tax	\$5,902,159.39	\$6,517,261.89
Electric Transmission Tax	1,340,855.54	1,360,976.54
Electric Generation from Wind Tax	104,055.99	215,853.26
Electric Generation (from sources other than wind and coal)	17,168.71	17,200.77

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.

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Telecommunications Tax Assessed	\$11,110,892.21	\$10,941,035.10	\$11,065,962.27	\$11,156,359.24

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 six and one-half percent (6.5%). 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 3/13's of the tax while the financial institutions tax distribution fund receives 10/13'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.

The 2013 legislature passed legislation to repeal the financial institution tax as of December 31, 2012. For tax years beginning January 1, 2013, financial institutions will be subject to regular income tax. The final financial institution tax distribution to the counties will be March, 2014 for the 10/13 of the collections related to the 2012 tax year. Beginning July 1, 2014, the counties will receive an increased share of the state aid distribution fund to effectively replace the annual revenues received from the financial institution tax distribution fund.

### Financial Institutions Tax Collections

	<b>2009-2011 Biennium</b>		<b>2011-2013 Biennium</b>	
	<b><u>FY 2010</u></b>	<b><u>FY 2011</u></b>	<b><u>FY 2012</u></b>	<b><u>FY 2013</u></b>
Total Net Collections	\$ 10,451,318.55	\$ 11,923,763.12	\$ 13,418,653.01	\$ 20,219,112.43
State General Fund	\$ 2,830,664.55	\$ 3,918,088.12	\$ 3,783,160.01	\$ 7,453,350.11
Financial Institution Distribution Fund	\$ 7,620,654.00	\$ 8,005,675.00	\$ 9,635,493.00	\$ 12,765,762.32

## Cigarette and Tobacco Products Net Tax Collections

	2009-2011 Biennium		2011-2013 Biennium	
	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
3¢ per package cigarette tax distributed to cities on population basis	\$1,353,441.68	\$1,400,356.97	\$1,530,253.89	\$1,525,111.81
41¢ per package cigarette tax distributed to State General Fund	\$18,430,123.28	\$19,050,409.05	\$20,916,469.68	\$20,843,194.43
28% of the wholesale price of tobacco products distributed to State General Fund	\$3,976,397.58	\$4,738,152.95	\$5,663,311.85	\$6,244,020.49

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

	2009-2011 Biennium		2011-2013 Biennium	
	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
Amount distributed to the Tribe	\$64,692.59	\$63,023.58	\$75,371.41	\$75,876.28
Amount distributed to the State General Fund	\$24,231.93	\$23,606.78	\$28,231.88	\$28,421.00

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: \*

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Airlines	\$202,398.98	\$212,110.18	\$218,365.56	\$219,632.38

\* 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 2011-2013 Biennium

Aviation Fuel, Motor Vehicle Fuel, & Special Fuel Collections - Tax, Penalty, Interest, & Fees	<u>FY-2012</u> Dollars	<u>FY-2013</u> Dollars
<b>Aviation Fuel:</b>		
Aviation Gasoline - at \$.08 Per Gallon	\$ 164,373.15	\$ 165,668.11
Jet Fuel - at \$.08 Per Gallon	1,708,618.15	1,732,029.71
Penalty and Interest	2,558.90	519.61
<i>Total Collections</i>	<u>\$ 1,875,550.20</u>	<u>\$ 1,898,217.43</u>
Total Refunded	13,117.20	19,575.49
<i>Net Collections</i>	<u>\$ 1,862,433.00</u>	<u>\$ 1,878,641.94</u>
 <b>Motor Vehicle Fuel:</b>		
Gasoline - at \$.23 Per Gallon	\$ 42,657,702.28	\$ 41,497,020.38
Gasohol - at \$.23 Per Gallon	53,631,074.93	57,457,858.66
Penalty and Interest	38,760.97	16,303.27
<i>Total Collections</i>	<u>\$ 96,327,538.18</u>	<u>98,971,182.31</u>
Total Refunded	746,133.62	684,383.85
<i>Net Collections</i>	<u>\$ 95,581,404.56</u>	<u>\$ 98,286,798.46</u>
 <b>Special Fuel:</b>		
Diesel-Propane - at \$.23 Per Gallon	\$ 86,656,894.00	\$ 90,425,578.41
Diesel-Heating-Kerosene-Propane - at 2% or \$.04 Per Gallon	18,037,345.80	18,630,553.18
Heating	(5,436.79)	0.00
Penalty and Interest	59,690.20	66,626.06
<i>Total Collections</i>	<u>\$ 104,748,493.21</u>	<u>\$ 109,122,757.65</u>
Total Refunded	641,663.09	557,695.42
<i>Net Collections</i>	<u>\$ 104,106,830.12</u>	<u>\$ 108,565,062.23</u>
 <b>Consolidated Laboratories Inspection Fees:</b>		
From Motor Vehicle Fuel	\$ 109,250.89	\$ 112,091.19
From Special Fuels (except Propane)	201,377.87	210,575.28
<i>Total Collections</i>	<u>\$ 310,628.76</u>	<u>\$ 322,666.47</u>
 <b>License Fees:</b>		
Aviation Fuel Tax Licenses	\$ 120.00	\$ 60.00
Motor Vehicle Fuel Tax Licenses	460.00	440.00
Special Fuels (Diesel-Heating-Kerosene) Tax Licenses	800.00	360.00
Liquefied Petroleum Gas Tax Licenses	520.00	320.00
<i>Total Collections</i>	<u>\$ 1,900.00</u>	<u>\$ 1,180.00</u>
 <b>Cash Bonds:</b>		
	<u>\$ 22,500.00</u>	<u>(\$ 94,500.00)</u>
 <b>Tribal Tax Collections:</b>		
Standing Rock Gasoline/Gasohol - at \$.23 Per Gallon	\$ 308,976.48	\$ 337,315.79
Standing Rock Diesel Fuel - at \$.23 Per Gallon	29,586.88	38,837.02
Spirit Lake Gasoline/Gasohol - at \$.23 Per Gallon	240,951.37	235,194.86
Spirit Lake Diesel Fuel - at \$.23 Per Gallon	24,462.54	17,242.66
Three Affiliated Gasoline/Gasohol - at \$.23 Per Gallon	841,416.47	884,804.34
Three Affiliated Diesel Fuel - at \$.23 Per Gallon	1,200,176.10	1,303,587.95
Turtle Mountain Gasoline/Gasohol - at \$.23 Per Gallon	672,818.83	655,640.68
Turtle Mountain Diesel Fuel - at \$.23 Per Gallon	37,723.10	31,648.94
<i>Total Tribe Gasoline/Gasohol - at \$.23 Per Gallon</i>	<u>\$ 2,064,163.15</u>	<u>\$ 2,112,955.67</u>
<i>Total Tribe Diesel Fuel - at \$.23 Per Gallon</i>	<u>\$ 1,291,948.62</u>	<u>\$ 1,391,316.57</u>
 <i>Grand Total of Collections</i>	 <u>\$ 203,286,610.35</u>	 <u>\$ 210,221,503.86</u>
<i>Grand Total of Refunds</i>	<u>1,400,913.91</u>	<u>1,261,654.76</u>
<i>Grand Total of Net Collections</i>	<u>\$ 201,885,696.44</u>	<u>\$ 208,959,849.10</u>

**Aviation Fuel, Motor Vehicle Fuel, and Special Fuel Taxes  
Taxable Gallons 2011-2013 Biennium**

<b>Aviation Fuel, Motor Vehicle Fuel, &amp; Special Fuel Taxable Gallons</b>	<b>FY-2012 Gallons</b>	<b>FY-2013 Gallons</b>
<b>Aviation Fuel:</b>		
Aviation Gasoline - at \$.08 Per Gallon	2,065,741	1,900,162
Jet Fuel - at \$.08 Per Gallon	21,547,108	21,761,819
<i>Total Taxable Gallons</i>	23,612,849	23,661,981
Gallons Refunded \$.08 Per Gallon Tax at 4%	1,134,741	0
Other Refunds - US Gov't Etc	163,965	229,073
<i>Net Collections at \$.08</i>	<u>22,314,143</u>	<u>23,432,908</u>
<b>Motor Vehicle Fuel:</b>		
Gasoline - at \$.23 Per Gallon	188,978,248	183,516,820
Gasohol - at \$.23 Per Gallon	237,904,533	254,250,492
<i>Total Taxable Gallons</i>	426,882,781	437,767,312
Gallons on which Tax was Refunded	5,929,272	5,443,201
<i>Net Taxable Gallons</i>	<u>420,953,509</u>	<u>432,324,111</u>
<b>Special Fuel:</b>		
Diesel-Propane - at \$.23 Per Gallon	377,284,189	385,066,135
Diesel-Kerosene-Propane - at 2% or \$.04 Per Gallon	457,343,493	474,182,067
Heating	60,877,963	75,015,596
<i>Total of Taxable Gallons</i>	895,505,645	934,263,798
<i>Gallons on which Tax was Refunded</i>	601,707	599,684
<i>Grand Total Net Taxable Gallons</i>	<u>894,903,938</u>	<u>933,664,114</u>
 <i>Grand Total Taxable Gallons</i>	 <u>1,338,171,590</u>	 <u>1,389,421,133</u>

**Aviation Fuel:** A per gallon tax is levied on all aviation fuel. For this biennium the tax was \$.08 per gallon. The tax is refundable to emergency medical units and consumers. 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.

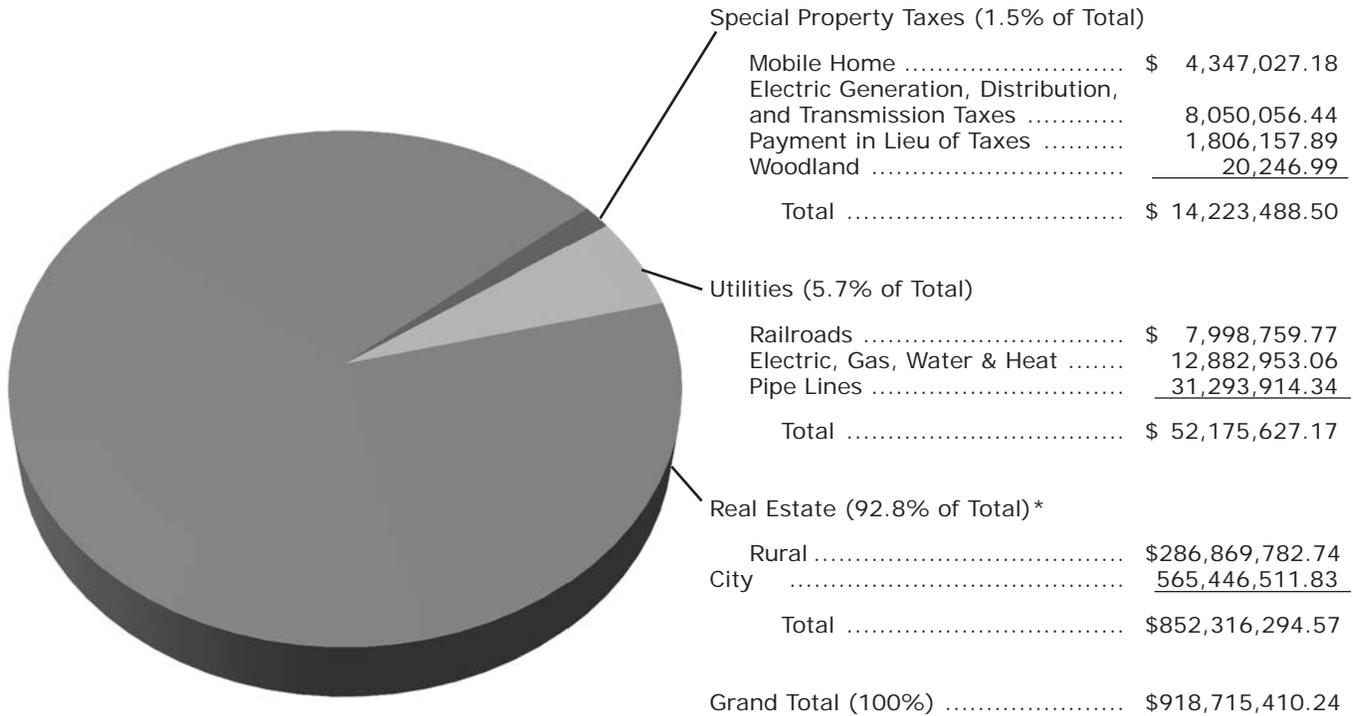
**Motor Vehicle Fuel:** A per gallon tax is levied on all motor vehicle fuel (gasoline and gasohol). For this biennium the tax was \$.23 per gallon. The tax is refundable when the fuel is for emergency medical service, or is used in non-licensed equipment for agricultural, industrial or railroad purpose. Refunds to industrial consumers are reduced by \$.005 per gallon. The \$.005 per gallon withheld is deposited into the Agriculturally Derived Fuel Tax Fund. Refunds to agriculture consumers are reduced by \$.07 per gallon. Of the \$.07 per gallon withheld, \$.01 per gallon is earmarked for ethanol production incentives, \$.02 per gallon is deposited into the Agriculturally Derived Tax Fund, and \$.04 per gallon is deposited into the Agricultural Research Fund.

**Special Fuels:** For this biennium the tax was \$.23 per gallon. The tax for dyed fuel and kerosene used in non-licensed equipment was \$.04 per gallon. A tax of 2% is levied on propane. Fuel that qualified for heating fuel purposes, including dyed fuel, kerosene, and propane, is exempt from tax. The Tax is refundable for emergency medical service. Refrigeration units using clear diesel may receive a refund on the difference between the \$.23 and \$.04 tax.

**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 2012 - Payable in 2013)



\* Includes all special assessments.

Source: 2012 Property Tax Statistical Report compiled by the Office of State Tax Commissioner.

### Property Tax

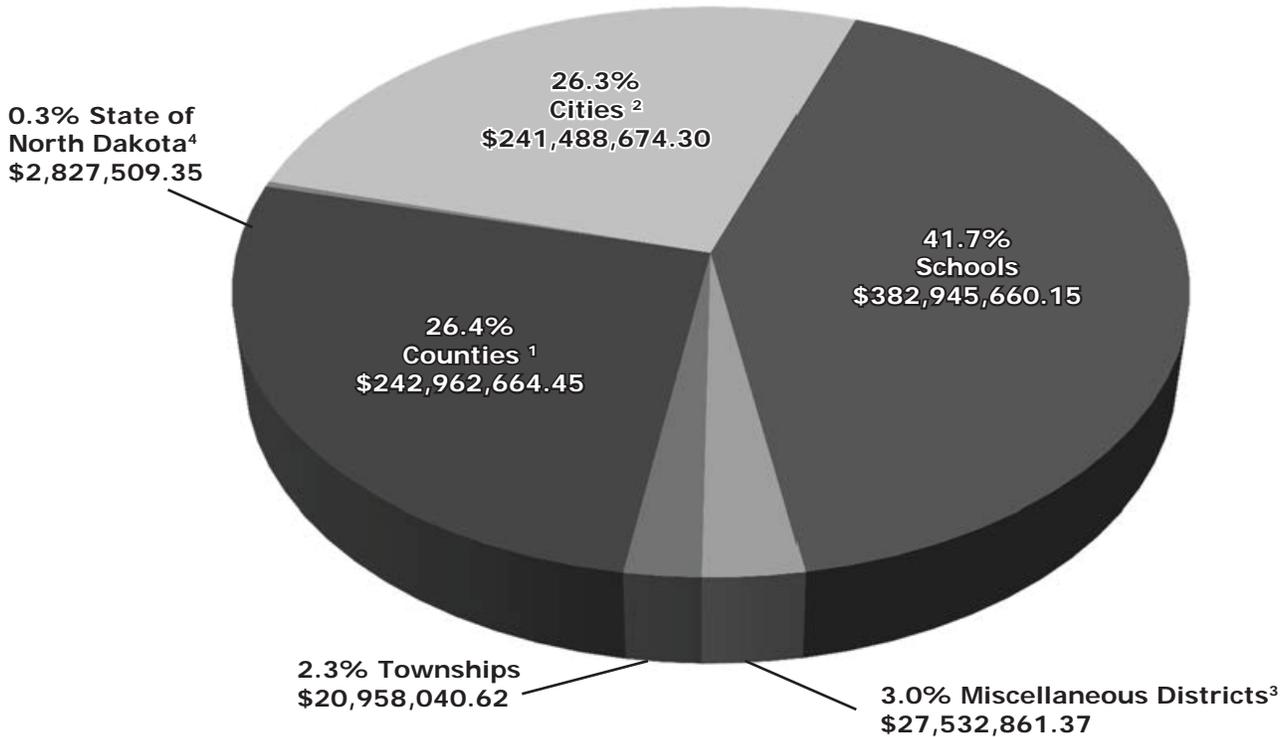
Real property owned by a corporation, partnership, individual, estate or trust is subject to a tax based on its valuation. The property tax, except the tax on the operating property of railroads and other utilities, is assessed locally. The property tax is collected and distributed by the county to the 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 2012 - Payable in 2013)



**Grand Total - \$918,715,410.24**

<sup>1</sup> Including County Park Districts, County Libraries, County Airports, Unorganized Townships, Water Resource and Joint Water Resource Districts.

<sup>2</sup> Including City Park Districts, City Special Assessments, and tax increments.

<sup>3</sup> 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.

<sup>4</sup> Constitutional one mill levy for the Medical Center at the University of North Dakota.

Source: 2012 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

<u>Tax Year</u>	<u>Number of Persons Receiving Renter's Refunds</u>	<u>Renter Refunds Paid</u>	<u>Number of Persons Receiving Homeowner's Credits</u>	<u>Homeowner's Credits Tax Amount</u>
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
2011	2,260	581,965	4,359	3,307,844
2012	2,284	583,706	4,265	3,347,838

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 2011 and 2012 (Payable in 2012 and 2013)

<u>Income of</u>	<u>Reduction</u>	<u>Maximum Reduction</u>
\$ 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

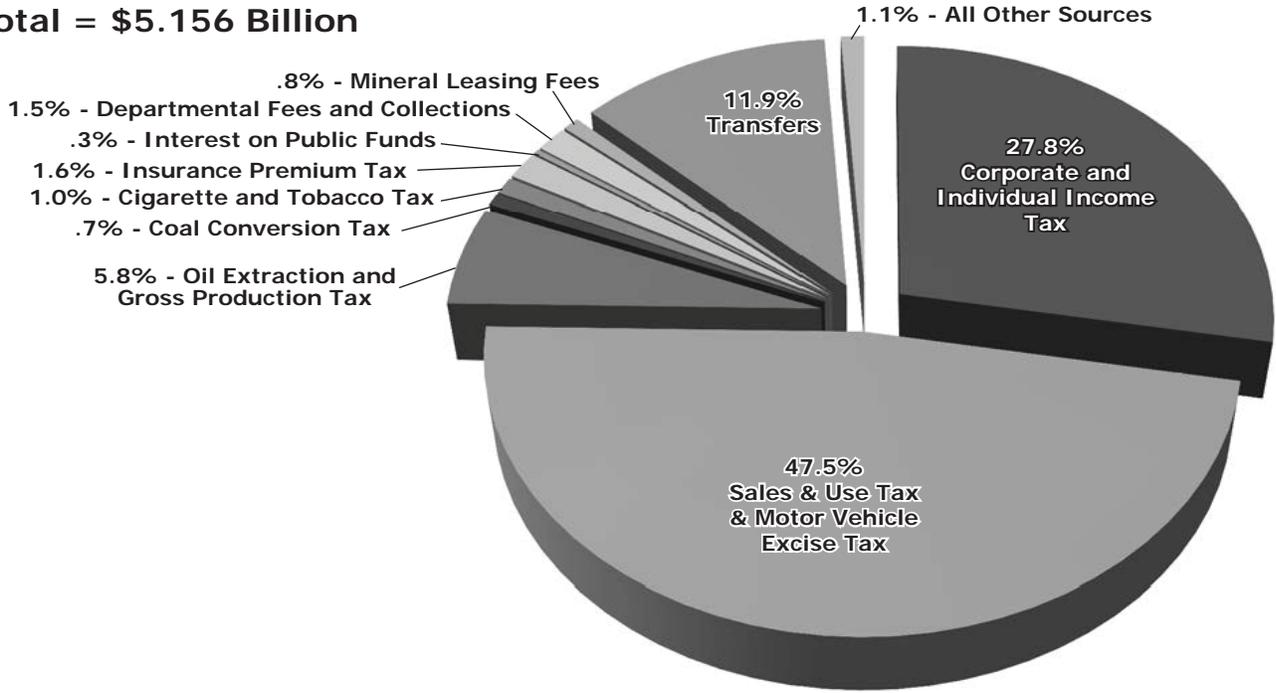
<b><u>Tax Year</u></b>	<b><u>Number of Qualifying Disabled Veterans</u></b>	<b><u>Disabled Veterans' Credit Tax Amount</u></b>
2009	1,513	\$ 1,627,763.06
2010	1,849	1,961,238.32
2011	2,206	2,321,952.01
2012	2,460	2,595,509.12

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.

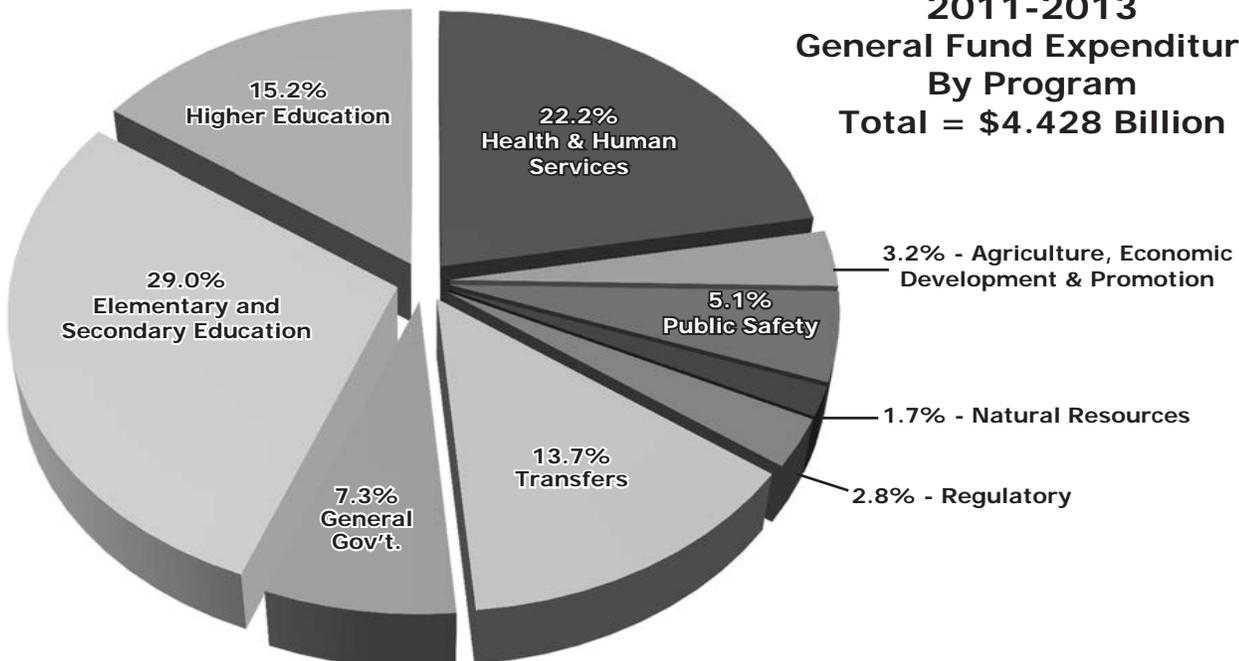
The 2011 legislature provided that a disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to 100 percent is also eligible for the credit. An unremarried surviving spouse who is receiving department of veterans' affairs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

## State General Fund Revenues and Expenditures in the 2011-2013 Biennium

### 2011-2013 General Fund Revenue Sources Total = \$5.156 Billion



### 2011-2013 General Fund Expenditures By Program Total = \$4.428 Billion



SOURCE: Office of Management and Budget, November 2013.

## Statement of Expenditures 2011 - 2013 Biennium

Description	Commissioner's Division	Legal Division	Fiscal Mgmt. Division	Taxpayer Services Division	Property & Utility Taxes Division	Information Mgmt & IT Division	Disabled Veterans Credit	Homestead Tax Credit	TOTAL
Salaries and Wages									
FY 12	\$ 754,430.88	\$ 420,317.29	\$ 450,572.16	\$ 4,799,036.07	\$ 404,481.51	\$ 1,809,949.91			\$ 8,638,787.82
FY 13	814,606.40	443,824.57	553,408.27	5,424,704.22	460,865.14	1,274,492.45			\$ 8,971,901.05
Information Services									
FY 12	10,448.39	2,448.75	3,789.74	52,331.15	2,699.62	496,017.44			\$ 567,735.09
FY 13	11,594.66	2,286.26	3,461.65	62,076.66	2,832.64	403,648.91			\$ 485,900.78
Operating Expenses									
FY 12	73,299.23	61,550.63	86,522.64	733,544.34	22,314.08	1,856,868.28			\$ 2,834,099.20
FY 13	280,374.55	48,121.89	399,595.62	606,660.56	37,750.17	1,940,095.36			\$ 3,312,598.15
Equipment									
FY 12						7,164.00			\$ 7,164.00
FY 13									
Disabled Veterans Credit									
FY 12							2,306,258.31		\$ 2,306,258.31
FY 13							2,612,025.50		\$ 2,612,025.50
Homestead Tax Credit									
FY 12								3,896,716.48	\$ 3,896,716.48
FY 13								3,935,676.45	\$ 3,935,676.45
TOTAL									
FY 12	\$ 838,178.50	\$ 484,316.67	\$ 540,884.54	\$ 5,584,911.56	\$ 429,495.21	\$ 4,162,835.63	\$ 2,306,258.31	\$ 3,896,716.48	\$ 18,243,596.90
FY 13	\$ 1,106,575.61	\$ 494,232.72	\$ 956,465.54	\$ 6,093,441.44	\$ 501,447.95	\$ 3,625,400.72	\$ 2,612,025.50	\$ 3,935,676.45	\$ 19,325,265.93
<b>BIENNIAL TOTAL</b>	<b>\$ 1,944,754.11</b>	<b>\$ 978,549.39</b>	<b>\$ 1,497,350.08</b>	<b>\$ 11,678,353.00</b>	<b>\$ 930,943.16</b>	<b>\$ 7,788,236.35</b>	<b>\$ 4,918,283.81</b>	<b>\$ 7,832,392.93</b>	<b>\$ 37,568,862.83</b>

## 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](http://www.nd.gov/tax)

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### Administration

Biennial Report of the Office of State Tax Commissioner  
Brochures

- Career Opportunities
- Tax Incentives for Business

State and Local Taxes: An Overview and Comparative Guide (a.k.a. The Red Book)  
Taxpayer Bill of Rights  
Tax Information for Native Americans and Tribal Governments  
Business Reports, Forms and Licenses Required in the State of North Dakota

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### 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

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### 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](http://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](mailto:taxinfo@nd.gov)**

Call:

**701.328.7088**



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