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The Taxation and Revenue System of State & Local Governments in North Dakota

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FOREWORD

This report on the North Dakota tax system is a by-product of a much broader study of the impacts of increased coal production in the Northern Great Plains. Subsequent research will examine the effects of coal development on state and local financial resources; demands for local government services; and impacts on population, income, employment, and natural resources in the region. This work is conducted under Agreement EPA-IAG-D6-E766 between the United States Environmental Protection Agency and the Economic Research Service, United States Department of Agriculture, in cooperation with the Department of Agricultural Economics, North Dakota Agricultural Experiment Station.

The material in this report will be combined with similar information on other states and with additional research to provide the basis for a report to the Environmental Protection Agency on the impacts of coal production on local government finances. It is reproduced in this preliminary form, however, to make it available to state officials and others who have an immediate need for the information. This report was not reviewed by the Environmental Protection Agency prior to publication and does not necessarily reflect the views and policies of that agency.

Several persons reviewed earlier drafts of the manuscript for this report and made constructive criticisms, including:

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TABLE OF CONTENTS

Page

Overview of the North Dakota Tax System 1
Property Taxes 4
General Description of the Property Tax System 4
Assessment Procedure 4
Equalization 5
Sales Ratio Study 7
Property Tax Calendar 8
Enforcement of Delinquent Taxes 9
Assessed Valuation of Land in Coal Mines 9
Exemptions and Special Taxes on Certain Types of Property 11
Personal Property Tax Replacement 13
Taxation of Mobile Homes 14
Mobile Homes as Real Estate 14
Special Mobile Home Property Tax 14
Statutory Basis 15
Taxation of Rural Electric Cooperatives 15
Statutory Basis 16
Taxation of Banks, Trust Companies, and Savings and Loan Associations . 16
Statutory Basis 17
Taxation of Mutual, Cooperative, and Small Commercial Telephone Companies 17
Statutory Basis 18
Statistics on General and Special Property Taxes 18
Taxation of Airlines 18
Statutory Basis 22
Taxation of Carline and Express Companies 22
Statutory Basis 22
Estate Tax 23
Statutory Basis 25
Personal Income Tax 25
Statutory Basis 27
Corporate Income Tax 27
Statutory Basis 28
Business and Corporation Privilege Tax 28
Statutory Basis 29
Insurance Premium Tax 29
Statutory Basis 29
Retail Sales and Use Taxes 29
Statutory Basis 31
Excise Taxes on Cigarettes and Tobacco Products 32
Statutory Basis 32
Excise Taxes on Alcoholic Beverages 32
Statutory Basis 33
Tax on Sales of Performing Rights to Copyrighted Musical Compositions . 33
Statutory Basis 33
Motor Vehicle Fuel Tax 33
Statutory Basis 34
Special Fuel Tax and Special Fuel Excise Tax 34
Statutory Basis 35

TABLE OF CONTENTS (CONTINUED)

	Page
Aviation Fuels Excise Tax	35
Statutory Basis	37
Motor Vehicle Excise Tax	37
Statutory Basis	39
Motor Vehicle Registration Fees	39
Statutory Basis	40
Taxation of Large Coal-Conversion Plants	40
Legislative Basis	44
Taxation of Transmission Lines	44
Statutory Basis	45
Oil and Gas Production Tax	45
Statutory Basis	46
Severance Tax on Coal Production	46
State Aids for Local Governments	48
Personal Property Tax Replacement Grants	48
Financial Assistance for General Fund Expenditures	49
Financial Assistance for Local Streets, Roads, and Highways	49
State Financial Aids for Operating Local Public Schools	53
State Aid for Construction of School Facilities	59
State Aid for Areas Impacted by Coal Development	61
Future Implications	62
List of Tables	63

THE TAXATION AND REVENUE SYSTEM OF STATE AND LOCAL GOVERNMENTS IN NORTH DAKOTA

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The purpose of this report is to describe the taxation and revenue system of North Dakota. It was prepared to aid the development of a procedure for assessing the impacts of coal mining and energy conversion plants on state and local governmental revenues in this state. The Agricultural Economics Department of the North Dakota Agricultural Experiment Station is publishing the report in its present form for other groups that are studying the impacts of industrialization and for state and local officials who may find it a convenient reference or handbook.

The revenue system as it existed during the 1975-76 fiscal year is described by including laws and amendments enacted by the 1975 Legislative Assembly. Citations are to the North Dakota Century Code, which is brought up to date after the close of each Legislative Assembly by use of pocket supplements to each volume.

Overview of the North Dakota Tax System

State and local governments in North Dakota make use of a wide variety of taxes to raise the revenue needed for their activities. Some of these taxes are collected locally and some are collected by state officials. Some of the state-collected taxes are shared with local governments under various formulas and administrative procedures.

The kinds of revenue to be included in a report such as this must be based on arbitrary decisions. Because of the wide diversity of taxes utilized in North Dakota, it is perhaps easier to list the revenues excluded from consideration. Special assessments against real estate, for example, are an

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important means for financing irrigation and drainage projects in rural areas and construction of certain municipal facilities, including paving, curbs and gutters, storm sewers, and water-supply and sewage-collection systems. Special assessments, however, are assumed to benefit specific tracts of real estate and generally regarded as development costs to be borne by the benefited landowners rather than as taxes.

Licenses and user fees charged by state and local officials are excluded on the grounds that it is more nearly correct to regard these as prices to be paid by consumers of specified goods and services rather than as taxes. Motor vehicle registration fees, however, are a borderline case and are included arbitrarily among the revenues discussed in this report without attempting to answer the question of whether registration fees are "taxes" or "user charges."

Table 1 was compiled from various documents and official records to show the relative importance of each tax (or group of taxes) during fiscal years 1972 and 1976 and to show changes during this four-year period. But a word of caution is in order because the data in this table are not internally consistent. The data for some taxes are amounts levied, while the data for others are amounts actually collected. Amounts levied and collected may differ somewhat because of delinquencies and refunds. Some of the data represent gross collections; other data are net, that is, they are collections minus refunds. Finally, some taxes are levied or assessed in one fiscal year, with part or all of the proceeds being collected in subsequent fiscal years. Property taxes, for example, are levied in one calendar year with most of the payments being received in the subsequent calendar year. The subsequent calendar year consists of parts of two fiscal years. Inflation and changes in tax rates aggravate the problem for inter-year comparisons.

It would have been a difficult task to correct these inconsistencies, because of the different reporting practices used by various state offices. It is believed, however, that Table 1 provides a reasonable approximation of the relative magnitudes of revenue yields from the various taxes.

The three taxes that provide the greatest amount of revenue for state and local governments in North Dakota are property, retail-sales, and net income taxes. These three accounted for 74 percent of the revenues listed in Table 1 during FY 1972 and 75 percent during FY 1976. Property taxes increased from $108 million in FY 1972 to $132 million in FY 1976, but because other revenues increased at faster rates, property taxes accounted for only 32 percent of the total in FY 1976 compared with 41 percent in FY 1972.

TABLE 1. TOTAL STATE AND LOCAL TAX REVENUE IN NORTH DAKOTA, BY TYPE OF TAX, 1972 AND 1976

Kind of Tax	1972 Fiscal Year: Thousands of Dollars	1972 Fiscal Year: Percent of Total	1976 Fiscal Year: Thousands of Dollars	1976 Fiscal Year: Percent of Total
Property Taxes (including mobile homes tax)[a]	$108,676	41.5	$132,154	32.1
Special Taxes in Lieu of Property Taxes[ab]	2,230	0.9	3,676	0.9
Estate Tax	2,676	1.0	6,083	1.5
Net Income Taxes (personal and corporate)[c]	24,956	9.6	66,994	16.3
Business and Corporate Privilege Tax	4,774	1.8	10,524	2.6
Retail Sales and Use Taxes	53,951	20.6	95,814	23.2
Motor Vehicle Excise and Use Tax	7,020	2.7	14,423	3.5
Other Excise and Sales Taxes (except motor fuels)[d]	12,604	4.8	14,200	3.4
Motor Vehicle Registration Fees	13,427	5.1	17,916	4.3
Motor Fuel Excises and Taxes[e]	24,132	9.2	29,145	7.1
Insurance Premiums Tax	3,694	1.4	5,458	1.3
Oil and Gas Production Tax[f]	3,195	1.2	8,617	2.1
Coal Severance Tax	0	0.0	5,523	1.3
Cooperative Electric Generation Tax	256	0.1	689	0.2
Cooperative Transmission Line Tax	88	g	128	g
Coal Conversion Facility Privilege Tax	0	0.0	973[h]	0.2
	$261,679	100.0	$412,317	100.0

[a]Amount of taxes levied in previous year, most of which are collected during the fiscal year shown.

[b]Special taxes levied against airlines, carlines, express companies, mutual and cooperative telephone companies, rural electric cooperatives, bank and trust companies, savings and loan associations, and woodland and game management areas.

[c]Includes small amount of Vietnam Bonus Surtax in 1976.

[d]Taxes on cigarettes, other tobacco products, oleomargarine (1972 only), alcoholic beverages, and music composition performing rights.

[e]Sales taxes and excises on gasoline, propane, butane, diesel fuel, and aviation fuel, less refunds paid.

[f]Amounts distributed to State General Fund and to counties during the fiscal year, which may differ somewhat from the actual collections during that fiscal year.

[g]Less than 0.05 percent.

[h]Actual collections; that is, $1,268,000 total liability for privilege tax, minus $295,000 credit claimed for payments made on the Cooperative Electric Generation Tax.

SOURCE: Compiled from biennial reports and office records of various state offices.

Revenue from net income taxes increased 168 percent from $25 million to nearly $67 million during this period, and the percentage coming from this source went from 9.5 percent to 16.3 percent of the total. Retail sales and use taxes (including those paid on sales of motor vehicles) increased 81 percent from $61 million to $110 million during the four-year period or from 23 percent of the total to 27 percent of the total. Income and sales taxes obviously are much more responsive to inflation than are property taxes.

Motor fuel taxes comprise the next largest revenue producers after the "big three." Most of the motor fuel levies are at fixed rates per gallon--although several of the less important fuel taxes are at percentages of sales prices--with the result that this group of taxes is affected less by inflation than most of the taxes described in this report.

Property Taxes

General description of the property tax system--North Dakota has a selective real estate and public utility tax rather than a "general property tax," because of the numerous exemptions and special treatments accorded certain classes of property. Money, credits, other intangibles, and improvements on farm real estate have been exempt from property taxation for many years. The farm improvements exemption has necessitated an elaborate set of rules to determine whether a given set of improvements is located on residential or industrial property (and hence is taxable) or on farmland (and hence is tax exempt). The 1969 Legislative Assembly exempted almost all remaining types of personal property from ad valorem taxation and provided for annual grants from the State General Fund to all local governmental units to replace the local revenue lost by virtue of this exemption.[4]

Assessment procedure--The assessed valuations of railroads and other taxable public utilities are determined annually by the State Board of Equalization. The values for each corporation within each taxing jurisdiction are prorated on a line-mileage basis and certified to the auditor of each county.

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[4]The principal type of personal property still taxable is furniture and fixtures owned by a fraternal order or other tax-exempt organization; that is, used for commercial purposes. Examples of this are furniture and fixtures in a bar or dining room operated for profit by a fraternal or veterans' organization.

The assessed valuations of all other taxable property are determined by some 1,800 local assessors. Each organized township has a locally elected or appointed assessor.[5] The governing body of each incorporated municipality appoints the assessor for that jurisdiction. The board of county commissioners appoints one or more district assessors to assess property lying outside incorporated municipalities and organized townships. Taxable personal property is assessed annually by these local assessors. Real estate usually is reassessed biennially in the odd numbered years although cities have the option of reassessing every year.

The assessed valuations by the State Board of Equalization and the local assessors are used by all taxing jurisdictions; that is, no school district or other local governmental unit has the authority to make its own assessments against which its own levies would apply as is the case in a few states.

According to the statutes, all assessed values are supposed to be at "true and full" value, which has been defined by the courts and state tax officials as "market value." In actual practice, however, assessed values are only small percentages of "true and full" value.[6] "Taxable valuation" (the value against which the millage rates of all taxing jurisdictions are applied) is 50 percent of assessed valuation.

Equalization--The original assessed values determined by local assessors are subject to review by the governing body of the local jurisdiction which is ex officio the local board of equalization. This board can order the assessed value of an individual parcel or of an entire class of property raised or lowered. The valuations approved by the governing boards of cities and townships are reviewed and "equalized" by the board of county commissioners sioners, sitting as the county board of equalization. "Equalization" is achieved by ordering the local officials to raise or lower the valuations of one or more classes of property to the end that all parcels and classes of property are assessed at the same percentage of "true and full" value.

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[5]The township assessor is elected for a two-year term by the electors at the annual township meeting. The electors, however, are empowered to make this office appointive by the board of township trustees. The electors also may abolish the office of township assessor and authorize the trustees to contract with some other political subdivision or with an individual for assessment work.

[6]See subsequent section on "Sales Ratio Studies."

Assessed valuations, as approved and/or equalized by the county boards, are subject to review and equalization by the State Board of Equalization, composed of five elected state officials (Governor, State Treasurer, State Auditor, Commissioner of Agriculture, and Tax Commissioner). A taxpayer who feels the assessed value placed on his property by the local assessor is inequitable may appeal to the local board of equalization. Under some conditions a taxpayer can appeal directly to the county or state board without first seeking relief from the local board.

The North Dakota tax system tends to encourage competitive underassessment by local assessors and boards of equalization. Officials of a city or township have an incentive to keep the assessed values in their jurisdiction as low as possible relative to assessed values in other assessing jurisdictions, so that tax payers in that township or city will bear a smaller portion of the county tax burden. Cities, which are more likely to be confronted with the operation of mill-rate limitations than townships, are at a distinct disadvantage in this competition.

The 1969 Legislative Assembly established the office of county director of tax equalization. This official is appointed by--and serves at the pleasure of--the board of county commissioners. His duties include: (1) to instruct local assessors and boards of equalization in the act of real estate appraisal, (2) to help the county auditor prepare assessment rolls, (3) to assess property overlooked by local assessors, (4) to assume general supervision of the assessment and equalization system within the county, and (5) to advise county commissioners in assessment and equalization matters. The county director has little direct legal authority over local assessors other than to order them to attend instructional meetings. Nevertheless, the director has considerable moral authority and if he has the solid backing of the county board, he can exert considerable influence over the level of local assessments by virtue of his relationship to the county board of equalization.

The State Tax Commissioner appoints a State Supervisor of Assessments whose main duties are: (1) to cooperate with county directors of assessment in educating local assessors and local boards of equalization in appraisal methods and assessment practices, (2) to conduct sales ratio and other studies of property assessment, (3) to advise the State Tax Commissioner of equalization matters, and (4) to assist the State Tax Commissioner in periodically revising the "Assessment Manual for Assessors and Boards of Equalization."

Sales ratio study--The two-fold purpose of assessment sales ratio studies are: (1) to assist state and county boards of equalization to arrive at fair "equalized" values for each class of real estate and (2) to provide a base for determining the millage rate for the county school equalization fund.[7]

The county director of tax equalization has general supervision over the collection of sales and assessment data for his county. Assessment sales ratios are computed for three general groupings of real estate in each county--farmlands, residential properties, and business properties--and are three-year moving averages. The 1976 study, for example, was based on 1975 assessed valuations and sales prices in transactions occurring between January 1, 1973, and December 31, 1975. Each year the oldest sample sales are dropped and new ones added. The identification of new sales parcels each year are made from deed recordings by the county directors of tax equalization and local assessors. Certain types of transactions are to be omitted, namely: (1) sales in which grantor and grantee are of the same family or corporate affiliate; (2) sales to or from a governmental unit, or from a religious, charitable, or non-profit organization; (3) sales resulting from estate settlements; (4) mortgage foreclosure and tax sales; (5) sales involving a change in land use; (6) transfers by quit-claim deed; and (7) any sales of agricultural land containing less than 80 acres.

Unless a sale is confirmed by either the grantor or the grantee, it is removed from the sample. The purpose of confirmation is to determine: (1) whether the legal description is correct; (2) whether any improvements were made to the property since sale date; (3) whether any personal property was involved in the sale and, if so, the estimated value; (4) whether this was a "family" sale; and (5) the actual sales price. Inasmuch as farm improvements are tax exempt, any sale in which the value of improvements might account for a large part of the sales price is also removed from the sample.

The board of county commissioners may request the removal of any sale from the sample that it feels is not representative of local market conditions

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[7]For details of this latter function, see section on "State Aids for Local Schools."

by sending its reasons to the Property Tax Division of the State Tax Department. The Property Tax Division may accept or reject the county board's request. The computation of the ratios is done by the Property Tax Division.

The total number of sales in the 1976 study was 16,275. The ranges in county average ratios by type of real estate were as follows:[8]

	Ratio of Assessed Value to Sales Price (%)		
Type of Realty	High	Low	State Average
Farmland	16.9	7.4	10.5
Business Property	27.0	11.9	16.8
Residential Property	21.9	12.2	15.5
Average	16.5	8.5	12.3

Property Tax Calendar

February 1: The assessment date; that is, assessed valuations are to reflect value and ownership as of this date.

February and March: Period during which local assessors do the appraisal work and prepare assessment rolls.

Second Monday in April: Township board of equalization meets to review and "equalize" assessments. The meeting may be adjourned from day to day, but equalization work must be completed within 10 days.

Fourth Monday in April: The township assessor must deliver corrected assessment roll to the county auditor on or before this date.

Second Tuesday in April: Meeting of the city board of equalization. Meeting may be adjourned from day to day. Statutes are unclear as to the time within which the equalization work is to be completed. Within 10 days after completion of the equalization work, however, the city auditor must deliver the corrected assessment roll to the county auditor. Presumably, this must be a few days prior to June 1.

First Tuesday in June: County board of equalization begins its work. The meeting may be adjourned from day to day. City assessments are the first order of business and township assessments are the second order of business.

June 30: Last day of the period within which the county auditor, as clerk of the county board of equalization, has to correct the assessment rolls (as ordered by the county board) and to prepare the Abstract of Assessments to be filed with the State Tax Commissioner.

First Tuesday in August: State Board of Equalization meets to assess the property of railroads and public utilities. (Usually this amounts to approval or adjustment of suggested valuations for each corporation, prepared by the staff of the Tax Commissioner.)

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[8] The 1976 North Dakota Sales Ratio Study, Eighth Report, North Dakota Tax Department, Bismarck.

Second Tuesday in August: State Board of Equalization meets to equalize assessed valuations of the various classes of property among the 53 counties. The State Board also determines what state property taxes, if any, will be levied in addition to the 1 mill required by the State Constitution for the Medical School.[9] The Tax Commissioner, as secretary of the State Board, notifies each county auditor of all decisions made by the State Board.

Early in September: County auditor corrects the assessed valuation of each piece of property on the township and city assessment roles, in accordance with instructions from the secretary of the State Board of Equalization.

Meanwhile, the various local governmental units have been going through the complicated steps of constructing budgets, holding public hearings, and determining the amounts of money to be raised by property taxes. The statutes provide maximum rates for almost all funds and purposes, except debt retirement. In some cases, these maximum rates may be exceeded by a favorable vote of the electorate, voting at a general or special election on the matter. Issuance of general obligation bonds also requires a favorable vote by the electors--usually a 60 percent majority.

Between September and December 10: County auditor compiles the tax role for each city and township, based on the corrected assessed valuations and the various millage rates certified by the various local governments. On or before December 10, he turns the completed tax rolls over to the county treasurer for collection.

On or before December 26: County treasurer sends a tax notice to the owner of each piece of property.

January 1: Taxes become due and payable.

February 15: Payment of entire real estate tax prior to this date entitles the tax payer to a 5 percent discount.

March 1: Date on which first half of the tax becomes delinquent if not paid. (Note: This date is 13 months after the assessment date.)

October 15: Date on which second half becomes delinquent if not paid. (Note: This date is 20½ months after assessment date.)

<u>Enforcement of delinquent taxes</u>--Enforcement of delinquent taxes is by sale of liens (represented by tax certificates) to bidders at public sale. Tax certificates not sold at this sale are struck off to the county. The county can subsequently sell these certificates at private sale. At the end of the statutory period of redemption, the county treasurer issues a "tax deed" at the request of the buyer. Frequently, there are flaws in the tax procedure, from assessment and mill rate determination to tax deed procedure, which means that a tax deed has all the uncertainties of a quit-claim deed. Consquently, the prudent tax deed owner generally clears title through judicial action in the district court.

<u>Assessed valuation of land in coal mines</u>--A law that has remained in the North Dakota statutes since 1897 requires that a piece of real estate

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[9]No state property tax levy, other than the one required for the Medical School, has been made since 1966.

containing a mine or quarry "shall be valued at such a price as such property, including the mine or quarry, would sell for at a fair voluntary sale for cash." (S.L. 1897, chapter 126, section 30. Now coded as section 57-02-27, NDCC, as amended by S.L. 1973, chapter 337.). This statute provides little help to the local assessor who is confronted with the task of appraising a modern strip mine. It does not provide the assessor with a workable standard of value for unmined coal in place, nor does it define the ownership tracts (or pieces of tracts) that should be considered as being part of any given mine.

An examination was made of the assessed valuations of all ownership tracts that contain at least some acreage under strip mining permits issued by the North Dakota Public Service Commision for the six largest mines in the state.[10] These tracts are located in three different counties. In all cases the land apparently was assessed as if it were agricultural land. No change in assessed valuation of a tract was made when the tract was added to the permitted acreage. Whenever an "across-the-board" increase was ordered by the state or county board of equalization during the 1971-1975 period, the same percentage change was applied to the tracts containing permitted acreage as was applied to farming tracts. One county changed its assessment method to one based on soil surveys during this period. As might be expected, this change resulted in decreased assessed valuations on some tracts and increased values on others.

Each of the six mines has several building and support facilities located on land owned by the mining company near the actual mining operations--such as office, bathhouse, repair shop, warehouse, fuel oil storage tanks, explosive storage facilities, railroad spur or siding, scales, tipple, crusher, and other processing facilities. Both the actual value and the assessed valuation of these facilities vary considerably from mine to mine, depending upon several factors, including size of operation and method of marketing the coal. For example, a mine that delivers practically all of its production to a nearby thermogenerator by 120-ton coal haulers would have little use for a tipple or loading dock, while a mine that "exports" most of its productivity via unit

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[10] Voelker, Stanley W., Property-Tax Assessments of Coal Mines in North Dakota, unpublished manuscript, Economic Reserch Service, U.S. Department of Agriculture, Fargo, North Dakota, July 19, 1976, 10 pp.

trains might require elaborate loading facilities. The statutes are not entirely clear as to what kinds of machinery are to be deemed part of a mining structure--and hence taxable as real estate, and what kinds are personal property--and hence tax exempt under the 1969 personal property exemption act.

The general practice seems to be to assess buildings and other structures associated with mines at 15 to 20 percent of appraised value so that the assessment ratio will not be very much out of line with the assessment ratios on farmland and residential property. The land on which the buildings and structures are located is assessed as "industrial land." Two of the counties assess industrial land at about twice the rate per acre used for agricultural land, while the other county assesses industrial land at the same rate as agricultural land.

Exemptions and special taxes on certain types of property--The North Dakota Legislative Assembly has provided property tax exemptions for several different types of owners. All property owned by governmental units is exempt. Property owned by churches and used exclusively for religious purposes and residences of clergy is exempt. Hospitals, schools, colleges, cemeteries, fraternities, sororities, college dormitories, meeting halls of fraternal societies and veterans' organizations, specified kinds of charitable organizations, and Indian-owned land on Indian reservations are all exempt. Partial exemption or homestead exemptions are granted to disabled war veterans, blind persons, paraplegics, and their spouses. Machinery and equipment to utilize solar energy for heating or cooling buildings were granted five-year tax exemptions by the 1975 Legislative Assembly. (Section 57-02-08, NDCC, as amended by S.L. 1975, chapter 505-508.)

Formerly, low-income persons over 65 years of age were granted homestead exemptions of 50 percent of the assessed valuations of their property up to a maximum of $1,000 of assessed valuation. This law was amended in 1973 and 1975 to include "permanently and totally disabled persons" and to vary the amount of homested credit inversely with the annual income of the elderly or disabled taxpayer. In addition, a procedure was established for reimbursing local governments for the resulting tax loss with payments from the State General Fund and a rent refund or subsidy was provided to low-income senior citizens and totally disabled persons who do not own their homes. Both the homestead tax credit program and the rent refund program are administered by the State Tax Commissioner.

The amount of the homestead tax credit varies with the applicant's annual income from all sources (including welfare, social security, and pensions) as follows:

Annual Income	Homestead Credit in Percent of Assessed Valuation	Maximum Reduction in Assessed Valuation of Homestead Allowed
$2,500 or less	100	$3,000
2,500 to 3,500	75	1,500
3,500 to 4,500	50	1,000
4,500 to 5,000	25	500

The county auditor certifies to the State Tax Commissioner the amount of homestead exemption to be allowed each applicant together with the millage rates of all local governmental units within which the homestead is located. The Tax Commissioner audits these certifications and forwards them to the State Treasurer, who sends the proper payment to each county treasurer. The county treasurer apportions these payments to the various funds of each taxing jurisdiction in the same manner as property tax receipts.

To qualify for a rental refund, a low-income person must have an annual income from all sources of $5,000 or less. The amount of the refund payment (which approximates the property tax portion of the rent) is the difference between 5 percent of the applicant's annual income and 20 percent of his annual rent payments. No rental refund may exceed $100 per year. The payments are made directly to the low-income or disabled person. (Section 57-02-08.1 and section 57-02-08.2, NDCC, as amended by S.L. 1973, chapter 448, and by S.L. 1975, chapter 509.)

Owners of commercial buildings may be granted a three-year exemption for improvements made on such properties. The amount of exemptions may not exceed the value of the improvements made. The owner must file for the exemption with the local assessor. The exemption is subject to the approval of the governing bodies of the county and the city or township within which the building is located. (S.L. 1973, chapter 451. Now coded as chapter 57-02.2, NDCC.)

New businesses and industrial projects may be granted partial or complete exemption from property and income taxes for periods up to five years by the governing body of the municipality or board of county commissioners (if the project is located outside of any municipality). These exemptions are subject to the approval of the State Board of Equalization. The 1975 Legislative Assembly removed large industrial projects from eligibility for these exemptions on the grounds that such projects might impose extraordinary burdens on governmental services and facilities. A "large industrial project" is defined as one for which the total cost of buildings and equipment exceeds $100 million, or the projected gross annual sales exceeds $100 million, or the projected employment exceeds 1,000 employees at any time during construction or operation. (Chapter 40-57.1, NDCC, as amended by S.L. 1973, chapter 341, and S.L. 1975, chapter 387-388.)

Several types of property are exempt from general property taxes and are subjected to special taxes in lieu of property taxes: (1) mobile homes; (2) airlines; (3) small commercial, mutual, and cooperative telephone companies; (4) carline and express companies; (5) rural electric cooperatives; (6) banks, trust companies, and savings and loan associations; (7) large energy conversion plants; and (8) transmission lines. A description of each of these special taxes will be found in subsequent sections.

Personal property tax replacement--The 1969 act that exempted almost all types of personal property from general property taxation also repealed two minor taxes--the special property tax on grain in storage and the per capita tax (or poll tax) for schools. Moreover, the act also provided that annual payments from the State General Fund would be made to offset the revenue losses sustained by local governments. These changes became effective for the 1970 tax year. The replacement grants initially were based on the amount of personal property taxes levied by each taxing unit in 1968. In order to assure that future replacement grants would keep pace with inflation and changes in local government finance, the act provided that for each $4 change, plus or minus, in real estate taxes levied by each governmental unit between 1968 and the current year, there would be a corresponding increase or decrease of $1 in the replacement grant. (S.L. 1969, chapter 528. Now coded as chapter 57-58, NDCC.)

It was soon found that this adjustment formula overcompensated local governmental units for their personal property tax losses. The 1971 Legislative Assembly amended the formula so that the State General Fund would reimburse local units for only 95 percent of their 1968 personal property tax levies.[11] The change factor between real estate and personal property was raised from four to seven (S.L. 1971, chapter 578).

The 1975 Legislative Assembly greatly increased the amount of state aid to local schools and, at the same time, removed all school district funds and county school equalization funds from the list of recipients of personal property tax replacement grants. (Section 57-58-02 to section 57-58-05, NDCC, as amended by S.L. 1975, chapter 131.)

Taxation of Mobile Homes

Mobile homes sometimes pose perplexing problems for tax officials, primarily because this type of property is mobile. For example, a mobile home owner may be able to take advantage of the leisurely pace of the property tax calendar and move his trailer to another jurisdiction between assessment date and delinquency date to escape paying property taxes. Mobile homes sometimes become involved in complex legal distinctions between real estate and personal property. North Dakota has avoided some of these problems by subjecting mobile homes to a special property tax for which the tax calendar is shortened from 20½ months to a few weeks.

Mobile homes as real estate--If a mobile home were truly mobile, it generally would be considered personal property under the laws of most states. In North Dakota, a mobile home may be treated as real estate if it is attached to a permanent foundation (and thereby loses its "mobility") and if the mobile home and land on which it sits are owned by the same person. If the land is farmland and the owner is a farmer, the mobile home is considered to be an improvement on farmland and hence is tax exempt. If an "immobilized" mobile home is located on nonfarmland owned by the same owner, it is assessed and taxed as residential real estate. In this case, the real estate tax probably would be about the same as the mobile home tax, and the main differences would be in delinquency date and methods of enforcement available to local tax officials.

Special mobile home property tax--The owner of a mobile home must apply for a tax decal to the director of tax equalization of the county in which the home is located on or before January 10 each year. If a mobile

[11] Historically, about 5 percent of the personal property taxes were never collected.

home is purchased or moved into the state during the calendar year, the application for the tax decal must be made within 10 days. The county director of equalization assesses the mobile home according to procedures established by the State Tax Commissioner which may be briefly described as new cost depreciated for age and "equalized" to the approximate percentage of full and true value as other residential property. The director of tax equalization computes the taxes by applying the previous year's millage rates for the taxing jurisdictions within which the mobile home is located.

The mobile home tax becomes due and payable immediately at the county treasurer's office. Upon payment a mobile home tax decal is issued. A mobile home without a current year's tax decal is liable to monetary penalties and under certain conditions is liable to seizure and sale by the county sheriff. A 5 percent discount is allowed if the entire annual tax is paid on or before February 15 (or if paid within 10 days after purchase or entry into North Dakota). If a mobile home tax is more than $40, it may be paid in two installments--the first of which becomes delinquent if not paid on or before March 1 and the second, it not paid on or before June 1.

The tax on a mobile home purchased or brought into the state during the calendar year is reduced according to the number of months of its taxable status within the state. Under some conditions, the owner of a mobile home that is moved out of the state during the calendar year may be entitled to a tax refund.

Statutory basis--Chapter 57-55, NDCC.

Taxation of Rural Electric Cooperatives

Rural electric cooperatives (REC's) are subject to an annual gross receipts tax in lieu of all property taxes except taxes on land. The amount of tax to be paid by each REC is computed by the State Tax Commissioner, who apportions this amount among the counties in which the REC's distribution system is located on a line-mileage basis.

If any of the lines of an REC lie within the boundaries of a municipality, the city may elect to apply its property tax rates to the "taxable value" of the REC's distribution system within its boundaries as determined by the city assessor, in which case the amount of the assessment is reduced by that portion of the gross receipts tax allocable to the municipality.

The tax rate is 1 percent of annual gross receipts for the first five years the REC is in operation and 2 percent of annual gross receipts thereafter. (All existing REC's in North Dakota have been in operation for more than five years.)

The proceeds are apportioned among state, county, and local governmental units within which the distribution system is located by the same percentages that property taxes are apportioned. However, if an REC operates a generating plant with a capacity of less than 100 megawatts and has less than 200 miles of transmission lines, 85 percent of the tax proceeds are certified to the county containing the generator and 15 percent are apportioned among the counties in which the transmission lines are located on a line-mileage basis.[12] These amounts are certified to the auditors of the appropriate counties, who apportion the tax to local taxing jurisdictions on a line-mileage basis and certify these amounts to the county treasurers for collection. Each county treasurer divides the amount collected from each REC among the state, county, and local taxing jurisdictions in the same manner as property tax payments are divided.

Statutory basis--Chapter 57-33, NDCC.

Taxation of Banks, Trust Companies, and Savings and Loan Associations

This group of taxes are actually business privilege taxes based on corporate earnings instead of property valuation. The proceeds are apportioned among the local taxing jurisdictions in the same way that property taxes are apportioned. They are generally included with property taxes in local budgets and in publications of the State Tax Department.

There are actually two business privilege taxes on these financial institutions: (1) a 5 percent tax adopted initially by the 1941 Legislative Assembly for banks and by the 1961 Legislative Assembly for building and loan associations and (2) a 2 percent tax adopted by the 1969 Legislative Assembly as part of the "tax package" to provide replacement revenues for the revenues lost to local government by repeal of the ad valorem tax on personal property. Inasmuch as most of the legal and administrative procedures are the same for both taxes, they are frequently regarded as one tax.

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[12]At present this exception applies only to the 39 megawatt W. J. Neal Power Plant in McHenry County operated by Basin Electric Power Cooperative. Any REC that has a generation plant of 100 to 120 megawatts capacity is taxed according to chapter 57-33.1, NDCC, and any REC with a generating plant larger than 120 megawatts capacity is taxed according to chapter 57-60, NDCC, rather than according to this NDCC chapter on taxation of REC's. (See section on Taxation of Large Coal-Conversion Plants.)

The tax rate is 7 percent of annual net income for the preceding year, including income from tax exempt securities, with a minimum of $50 per year for any one taxpayer. The amount of tax to be paid by each financial institution is computed by the State Tax Commissioner prior to August 1 who certifies the amounts to the county treasurers of the counties in which the firms are located. The taxes become due on December 31 and become delinquent if not paid prior to March 1. Delinquent penalty is 5 percent of the original tax, plus 1 percent per month (on original amount) until paid.

This tax is in lieu of all taxes imposed by the State of North Dakota and local taxing jurisdictions, except sales and use taxes, motor vehicle excise taxes, and real estate taxes.

The tax is collected by the county treasurer who apportions the proceeds among the state, county, and other local taxing jurisdictions within which each financial institution is located in the same way that the general real estate levy is apportioned.

Statutory basis--Chapter 57-35, chapter 57-35.1, and chapter 57-35.2, NDCC, as amended by S.L. 1973, chapter 446; S.L. 1975, chapter 106 and 527.

Taxation of Mutual, Cooperative, and Small Commercial Telephone Companies

These three kinds of telephone companies pay an annual graduated gross receipts tax in lieu of property taxes against all property they own. The Tax Commissioner computes the amount of tax to be levied against each company by the State Board of Equalization. The tax against each company is apportioned among the counties in which it operates according to the number of telephone stations it has in each. The county treasurer collects the tax and apportions the proceeds to the various school districts in the county according to the number of telephone stations in each district.

The tax rate for a company depends upon the density of subscribers (that is, the number of telephone stations per mile of line) according to the following schedule:

Number of telephone stations per mile of line	Tax rate, as a percent of telephone operating receipts
1.25 or less	0.5
1.26 to 1.75	1.0
1.76 to 2.25	1.5
More than 2.25	2.0

The minimum tax for a company, however, is not less than 50 cents per telephone station.

The proceeds of the telephone tax are apportioned among the school districts according to the number of telephone stations in each district.

Statutory basis--Chapter 57-34, NDCC, as amended by S.L. 1973, chapter 461.

Statistics on General and Special Property Taxes

The tax base for general property taxes is measured by assessed valuation of the taxable property. Farmland accounted for slightly over half of the total property tax base of North Dakota in both 1972 and 1976 (Table 2). The assessed valuation of commercial properties and residential real estate increased somewhat during this five-year period, both in amount and in percentage of total. The valuation of railroad, telegraph, and pipeline companies decreased during this period, while that of all other classes of public utilities increased.

The total amount of general and special property taxes levied in North Dakota increased 8.5 percent from $110 million in 1971 to $135 million in 1975. The six special property taxes accounted for only 2 percent of the total property tax burden in 1971 and about 3 percent in 1975 (Table 3).

School districts, counties, and cities are the biggest users of property taxes (Table 4). Taxes levied by school districts in 1975, plus taxes levied for county school equalization funds (the proceeds of which are expended by school districts) accounted for 57 percent of the total property taxes, while taxes levied by counties and county park districts accounted for 21 percent and those levied by cities and city park districts for nearly 15 percent of the total.

Taxation of Airlines

Three special property taxes differ somewhat from the six discussed above in that the proceeds are not apportioned among all taxing jurisdictions. These are taxes on airlines, carlines, and express companies.

Operating properties of regularly scheduled airlines serving North Dakota cities pay a special property tax, computed by the State Tax Commissioner by applying the average mill levy for the cities served by these

TABLE 2. TOTAL ASSESSED VALUATION OF TAXABLE PROPERTY IN NORTH DAKOTA, BY CLASS OF PROPERTY, 1972 TO 1976

Class of Property	1972	1973	1974	1975	1976
	thousands of dollars				
Farmlands	648,000	680,712	681,063	741,026	741,131
Business Lots, Tracts, and Leased Sites	37,396	38,591	39,616	40,689	43,135
Business Buildings	149,738	155,770	168,621	174,834	190,868
Residential Lots, Tracts, and Leased Sites	48,340	50,430	51,773	54,866	58,851
Residences and Nonbusiness Buildings	245,573	254,628	265,541	285,292	310,682
Total Assessed Value of Real Estate	1,129,047	1,180,131	1,206,614	1,296,707	1,344,667
Less Homestead Credit Allowance	3,551	3,246	4,297	5,898	6,078
Net Assessed Value of Real Estate	1,125,496	1,176,885	1,202,317	1,290,809	1,338,589
Personal Property	377	400	327	408	403
Railroad Companies[a]	41,990	40,428	44,584	36,244	34,496
Telephone Companies[a]	42,292	43,170	39,076	46,748	46,964
Telegraph Companies[a]	118	124	89	73	92
Electric, Gas, Heat and Water Companies[a]	46,980	48,117	47,921	47,448	52,192
Pipeline Companies[a]	8,168	7,570	7,167	6,475	5,888
Total Assessed Valuation	1,265,421	1,316,694	1,341,481	1,428,205	1,478,624

[a]Assessed by State Board of Equalization.

SOURCE: North Dakota Tax Department, 1976 Statistical Report: 1975 Property Taxes Levied and 1976 Property Valuation, Bismarck.

TABLE 3. TOTAL AMOUNTS OF GENERAL AND SPECIAL PROPERTY TAXES LEVIED IN NORTH DAKOTA, BY CLASS OF PROPERTY, 1971 TO 1975

Class of Property	1971	1972	1973	1974	1975
	thousands of dollars				
General Property Taxes:					
Rural Real Estate	50,030	51,304	50,542	53,232	61,505
Rural Personal Property	2	4	2	3	3
City and Village Real Estate	45,867	48,280	46,712	50,818	56,694
City and Village Personal Property	35	41	40	42	47
Railroad Property	3,255	3,208	2,883	2,901	2,857
Telephone and Telegraph Property	3,754	3,911	3,742	4,058	4,577
Other Public Utility Property	5,029	5,099	4,842	5,002	5,252
Total General Property Taxes	107,972	111,847	108,763	116,056	130,935
Special Property Taxes:					
Mobile Home Tax	704	943	1,145	1,186	1,219
Rural Electrification Co-ops	560	575	614	678	812
Banks and Trust Companies	787	776	958	1,208	1,520
Savings and Loan Associations	104	169	209	273	308
Mutual and Rural Telephone Tax	129	149	159	213	253
Woodland and Game Management Taxes	4	6	6	6	10
Total Special Property Taxes	2,288	2,618	3,091	3,564	4,122
Total General and Special Property Taxes	110,260	114,465	111,854	119,620	135,057

SOURCE: North Dakota State Tax Department, Statistical Report: Property Taxes Levied and Property Valuations, 1972, 1973, 1974, 1975, and 1976, Bismarck.

TABLE 4. TOTAL AMOUNTS OF GENERAL AND SPECIAL TAXES LEVIED IN NORTH DAKOTA, BY TYPE OF TAXING JURISDICTION, 1971 TO 1975

Type of Taxing Jurisdiction	1971	1972	1973	1974	1975
	- - - - - - - - -	- - - *thousands of dollars*	- - -	- - -	- - -
General Property Taxes					
State (medical center)	626	633	658	671	714
Counties	20,327	20,989	22,039	23,840	28,028
County Park and Vector-Control Districts	136	145	150	178	228
Garrison Conservancy District	369	374	233	238	254
Rural Fire Protection Districts	317	351	455	602	748
Water Management Districts	720	793	887	1,055	1,358
Townships	5,251	5,327	5,400	5,441	5,784
Cities	13,147	13,382	13,740	14,793	15,865
City Park Districts	2,042	2,267	2,479	2,843	3,084
County School Equalization Funds	13,108	13,191	13,746	13,901	14,799
School Districts	51,929	54,395	48,976	52,494	60,061
Total General Property Taxes	107,972	111,847	108,763	116,056	130,923
Special Property Taxes[a]					
State (medical center)	12	13	16	18	20
Counties	507	530	662	773	876
County Park and Vector-Control Districts	2	2	3	4	6
Garrison Conservancy District	5	7	6	6	7
Rural Fire Protection Districts	4	5	8	11	14
Water Management Districts	10	13	17	24	34
Townships	60	64	78	81	89
Cities	373	424	550	639	707
City Park Districts	54	67	93	111	129
School Districts[b]	1,261	1,493	1,658	1,897	2,237
Total Special Property Taxes	2,288	2,618	3,091	3,564	4,119
Grand Total, All Property Taxes	110,260	114,465	111,854	119,620	135,042

[a]Includes taxes on mobile homes, rural electrification cooperatives, banks, savings and loan associations, and woodland and game management areas.
[b]Includes mutual and rural commercial telephone taxes and special property taxes for county school equalization funds.

SOURCE: North Dakota Tax Department, Statistical Report: Property Taxes Levied and Property Valuation, 1972, 1973, 1974, 1975, and 1976, Bismarck.

airlines to the taxable valuation determined by the State Board of Equalization. The amounts to be paid by each airline are certified to the State Treasurer for collection. The proceeds are used exclusively for airport purposes. Both the total assessed valuation of the airlines and the amount of taxes levied have tended to increase in recent years (Table 5).

TABLE 5. ASSESSED VALUATIONS OF AIRLINES AND AMOUNT OF PROPERTY TAXES LEVIED, 1972 TO 1976

Year of Assessment	Assessed Valuation[a]	Amount of Taxes Levied[b]
	- - - - - *thousands of dollars*	- - - -
1972	2,916	356
1973	2,635	289
1974	2,432	288
1975	2,749	345
1976	2,964	NA

[a]Annual Proceedings of North Dakota State Board of Equalization.
[b]Thirty-second Biennial Report of the Tax Commissioner for the period July 1, 1973, to June 30, 1975, and office records of State Tax Department. (Note: The taxes to be paid by Northwest Airlines have been in litigation since 1972. Various compromises have been suggested by both the State Board of Equalization and Northwest. The final net figures may differ somewhat from those shown above.)

The State Treasurer prorates the amounts collected among the cities and municipal airport authorities served by each airline, according to the annual gross landing weight of regularly scheduled landings at each airport.

Statutory basis--Chapter 57-32, NDCC, as amended by S.L. 1975, chapter 527.

Taxation of Carline and Express Companies

Operating properties of these firms are exempt from general property taxes and instead, are subjected to a special property tax. The State Board of Equalization determines the assessed value of the property of these firms that is allocated to North Dakota. The State Tax Commissioner computes the tax to be paid by each firm by applying the state average property tax rate to these taxable valuations and certifies the amounts to the State Treasurer for collection. The property taxes levied against carline and railway express firms are shown in Table 6. All proceeds are credited to the State General Fund.

Statutory basis--Chapter 57-32, NDCC, as amended by S.L. 1975, chapter 527.

TABLE 6. TOTAL ASSESSED VALUATION AND AMOUNT OF PROPERTY TAXES LEVIED AGAINST CARLINE AND RAILWAY EXPRESS FIRMS, 1972 TO 1976

	Carline Firms		Railway Express Companies	
Year of Assessment	Assessed Valuation[a]	Amount of Taxes Levied[b]	Assessed Valuation[a]	Amount of Taxes Levied[b]
	thousands of dollars			
1972	3,981	352	17.2	1.5
1973	5,002	413	13.9	1.1
1974	3,872	336	14.1	1.2
1975	4,652	427	10.0	0.9
1976	8,596	NA	c	c

[a]Annual Reports of State Board of Equalization.
[b]Thirty-second Biennial Report of the Tax Commissioner for the period July 1, 1973, to June 30, 1975, and office records of State Tax Department.
[c]REA Express, the only express company operating in North Dakota, went bankrupt in 1975 and is no longer assessed by the State Board of Equalization.

Estate Tax

The 1975 Legislative Session revamped the North Dakota estate tax structure and reduced the tax rates. The North Dakota tax is almost completely federalized; that is, the North Dakota definition of "taxable estate" of a decedent is based on the federal definition and the North Dakota regulations regarding exemptions and deductions (other than the amount of federal estate taxes) are very similar to the federal definitions. The North Dakota definition of taxable estate is stated as follows:

(1) If all property included in a federal gross estate of a decedent is located in North Dakota, the North Dakota taxable estate is the federal taxable estate less the amount of federal estate taxes paid on the transfer.

(2) If only part of the federal gross estate of a decedent is located in North Dakota, the North Dakota taxable estate is the amount of the federal taxable estate, less the amount of federal estate taxes paid, and less the proportionate share of the remainder represented by that portion of the total estate not located in North Dakota.

The 1975 Legislative Session increased the tax rates slightly on the smaller estates and decreased them slightly on the larger estates. For example, North Dakota taxes on net estate of $100,000 after payment of federal taxes, would have been $3,500 under the old rates, but $3,800 under the new rates, while the taxes on a net estate of $1,000,000 would have been $117,500 under the old rates, but $106,800 under the new rates.

The new tax schedule, which applies if death occurred after July 1, 1975, is as follows:

Amount of Net Taxable Estate	Amount of North Dakota Estate Taxes
Less than $30,000	Computed at 2% of taxable estate
$30,000 to $60,000	$600, plus 4% of excess over $30,000
$60,000 to $100,000	$1,800, plus 5% of excess over $60,000
$100,000 to $200,000	$3,800, plus 7% of excess over $100,000
$200,000 to $400,000	$10,800, plus 9% of excess over $200,000
$400,000 to $600,000	$28,800, plus 11% of excess over $400,000
$600,000 to $800,000	$50,800, plus 13% of excess over $600,000
$800,000 to $1,000,000	$76,800, plus 15% of excess over $800,000
$1,000,000 to $1,500,000	$106,800, plus 17% of excess over $1,000,000
$1,500,000 and over	$191,800, plus 20% of excess over $1,500,000

The North Dakota Tax Commissioner collects the estate taxes and turns them over to the State Treasurer, who apportions the tax on each estate to the various counties and cities in which the property is located. If all of the property is located outside of any incorporated municipality, the entire amount of the tax is deposited in the county general fund. If any part of the property is located within an incorporated municipality, the proceeds are apportioned between the municipality (or municipalities) and the county in proportion to their respective mill levies, except school levies, for the calendar year preceding death. If death occurred prior to July 1, 1975, 35 percent of the proceeds of estate taxes go to the State General Fund and only 65 percent to the counties and cities.

The total amount of estate taxes assessed in North Dakota increased from less than $3 million in FY 1972 to over $6 million in FY 1976 (Table 7). This

TABLE 7. AMOUNT OF ESTATE TAXES ASSESSED BY NORTH DAKOTA, 1972 TO 1976

Fiscal Year Ending June 30	Amounts Assessed	
	Under Old Rates[a]	Under New Rates[b]
	- - - - *thousands of dollars* - - - - -	
1972	2,676	0
1973	3,494	0
1974	3,826	0
1975	5,073	0
1976	5,771	312

[a]Estates where death occurred prior to July 1, 1975.
[b]Estates where death occurred on and after July 1, 1975.

SOURCE: Biennial Reports of North Dakota State Tax Commissioner and office records of State Tax Department.

increase was due almost entirely to inflation and several years of good business conditions. The change in rate structure which became effective in FY 1976 may have reduced the total amount of assessments because of the decreasing rates on estates of over $200,000.

Statutory basis--S.L. 1975, chapter 528. Now coded as chapter 57-37.1, NDCC.

Personal Income Tax

The North Dakota state income tax is almost completely "federalized;" that is, the North Dakota definition of taxable income is very similar to the federal definition and the various rules and regulations established by the North Dakota Tax Commissioner are very similar to those employed by the U.S. Internal Revenue Service. In fact, taxpayers are requested to attach copies of their federal income returns to their state returns.

There are some differences between North Dakota and federal tax laws because of constitutional requirements and differences in legislative policy. In practice, the computation of taxable income of a North Dakota taxpayer is based on the taxable income shown on his federal return. To this is added: (1) interest income on state and local government obligations, other than those of North Dakota; (2) amount of state income taxes deducted on the federal return; and (3) North Dakota domestic dividends received in cash and not included on the federal return. Several items are then subtracted to derive the North Dakota adjusted taxable income, the most important of which are: (1) interest on U.S. obligations; (2) military pay exclusion, up to $1,000; (3) military retirement pay; (4) federal civil service retirement and North Dakota city policeman or fireman pensions; (5) an adjustment for differences in state and federal exemptions and dependency allowances; (6) additional medical expenses not allowed on federal returns; (7) amount of federal income tax liability for the year; and (8) income not taxable in North Dakota.

The North Dakota personal income tax rates are as follows:

Amount of Taxable Income	Tax Rate
Up to $1,000	Computed at 1% of taxable income
$1,000 to $3,000	$10, plus 2% of excess over $1,000
$3,000 to $5,000	$50, plus 3% of excess over $3,000
$5,000 to $6,000	$110, plus 5% of excess over $5,000
$6,000 to $8,000	$160, plus 7½% of excess over $6,000
Over $8,000	$310, plus 10% of excess over $8,000

North Dakota does not have a general income tax withholding law, but it does require employers to withhold North Dakota state income taxes from those employees who do not furnish their employers with a Certificate of Residence (Form 302). An exception is made for certain residents of Minnesota.

All proceeds from the personal income tax are deposited in the State General Fund. Collections increased four-fold from $20.6 million during FY 1972 to $86.6 million in FY 1976 (Table 8). Inflation and a four-fold increase

TABLE 8. PERSONAL INCOME AND CORPORATE INCOME TAX COLLECTIONS BY STATE OF NORTH DAKOTA, 1972 TO 1976

Fiscal Year Ending June 30	Personal Income Tax: Collected on Returns	Personal Income Tax: Collected by Withholding	Personal Income Tax: Vietnam Bonus Surtax[a]	Corporate Income Tax: Collected on Returns	Corporate Income Tax: Vietnam Bonus Surtax[a]
	thousands of dollars				
1972	17,443	3,226	0	4,288	0
1973	23,964	5,315	2,327	4,690	55
1974	41,322	6,683	2,371	6,632	110
1975	59,219[b]	9,836	2,575[b]	8,634[b]	128[b]
1976	43,728[b]	12,729	105[b]	10,365[b]	67[b]

[a]S.L. 1971, chapter 496, provided for a surtax on income of every individual trust, or corporation that was required to file a state income tax return. The purpose of this surtax was to provide funds for interest and principal on bonds issued to provide funds for bonuses to veterans of the war in Vietnam. The surtax rate on returns of individuals, trusts, and estates was 1 percent of taxable income, but not less than $2.50 nor more than $12.50. The surtax was repealed by S.L. 1975, chapter 476, effective January 1, 1975, and was not collected on 1975 tax returns.

[b]Preliminary estimates based on distributions of surtax as of June 30.

SOURCE: Thirty-second Biennial Report of State Tax Commissioner and office records of State Tax Department.

in net farm income as a result of generally favorable weather and farm prices during this period were the most important reasons for the increased collections. More effective tax administration also may have been a factor. Little if any of the increased collections are attributable to the changes in tax rates that became effective January 1, 1973, because increased rates on taxable incomes below $4,000 were more than offset by decreased rates on taxable incomes above $4,000 (S.L. 1973, chapter 465.)

Statutory basis--Chapter 57-38, chapter 57-38.1, and chapter 57-59, as amended by S.L. 1973, chapter 465, 466, 467, 468, 470, 472, 473, 476, and 477; and S.L. 1975, chapter 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 541, 542, 543, 544, 574, and 575.

Corporate Income Tax

The North Dakota corporate income tax is almost completely "federalized." Corporations are taxed only upon the net income derived from business done in this state. Computation of North Dakota taxable income starts with the taxable income on the federal return from which the following are subtracted: (1) interest income received on federal obligations that was included on the federal return; (2) income taxes paid to the Federal Government on income allocable or apportionable to North Dakota; (3) dividends and other income received from stock or interest in any corporation in the proportion that the income of the corporation was taxed by North Dakota; (4) net income not allocated or apportioned to North Dakota as provided in the Multi-State Compact;[13] and (5) any adjustments made necessary by changes in the U.S. Internal Revenue Code subsequent to December 31, 1974. The following must be added to the net figure derived from these computations: (1) amounts of any state income taxes, franchises, or privilege taxes measured by income (except the North Dakota business and corporation privilege tax) that had been deducted on the federal return; (2) interest or dividends received from foreign or state securities (other than those of North Dakota); and (3) any adjustments made necessary by changes in the U.S. Internal Revenue Code subsequent to December 31, 1974.

All proceeds from corporation income taxes are deposited in the State General Fund. Annual collections increased from $4.3 million in FY 1972 to $10.4 million in FY 1976 (Table 8). Inflation and generally favorable business conditions associated with rising farm incomes during this period were important reasons for the increase. Another possible factor was multi-state joint auditing of tax returns of corporations operating in more than one state under the Multi-State Tax Compact.

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[13]The Multi-State Tax Compact established a three-factor formula for allocating income of a corporation among two or more states: property, payroll, and sales.

The North Dakota corporate income tax rates are as follows:

Amount of Taxable Income	Tax Rate
Up to $3,000	Computed at 3% of taxable income
$3,000 to $8,000	$90, plus 4% of excess above $3,000
$8,000 to $15,000	$290, plus 5% of excess above $8,000
Over $15,000	$640, plus 6% of excess above $15,000

Statutory basis--Same as for personal income taxes.

Business and Corporation Privilege Tax

Each individual, estate, trust, or corporation doing business in North Dakota is subject to a privilege tax of 1 percent of net income in excess of $2,000 derived from the operation of any business, trade, or profession in North Dakota other than as an employee. Federal income taxes may not be deducted from gross income in computing this tax.

This tax is in addition to any income taxes that must be paid by the individual or corporation. Rural electric cooperatives, cooperative electric generating companies, and mutual or cooperative telephone companies are exempt from this business privilege tax. All other cooperatives, however, are subject to this tax. Net income of a cooperative includes distributed patronage dividends, amounts allocated but withheld, and amounts earned but not allocated.

This tax, adopted initially by the 1969 Legislative Session, has encouraged many small individually owned and partnership businesses to incorporate in order to reduce the amount of their tax liability. After incorporation the entrepreneurs can charge off much of their business earnings as "salaries," thus reducing the amount of business privilege tax liability. This procedure does not change their personal income tax liability very much and the additional corporate income tax liability is generally quite small. This alternative is not available to farmers, however, because corporations are prohibited by law from operating farms in North Dakota and from owning farmland for more than 10 years.

The proceeds of the business and corporation privilege tax are placed in the State General Fund. The annual revenue produced during the 1972-76 period is shown on the next page.[14]

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[14]SOURCE: Biennial Reports of State Tax Commissioner and office records of the State Tax Department.

Fiscal Year Ending June 30	Thousands of Dollars
1972	4,774
1973	5,839
1974	8,437
1975	11,455
1976	10,524

Statutory basis--Section 57-38-66, NDCC, as amended by S.L. 1973, chapter 477, and S.L. 1975, chapter 543.

Insurance Premium Tax

Every insurance company doing business in North Dakota, except stock or mutual companies organized under the laws of this state, is subject to an annual tax of 2½ percent of the gross amount of premiums, membership fees, and policy fees received in the state during the previous year. A 1975 amendment exempts payments for annuities from this tax.

Every domestic fire insurance company, except a county mutual insurance company, is subject to an annual tax upon its fire insurance premiums and assessments. The rate is 0.5 percent of gross premiums and assessments less return premiums from all direct business by the company in North Dakota.

Both taxes are administered by the State Insurance Commissioner. They become due on April 1 of each year. Proceeds are deposited in the State General Fund. The proceeds of the tax on fire insurance companies are used to help defray costs of the State Fire Marshall's Office.

The annual revenue produced by the 2½ percent tax increased steadily from $3.6 million in FY 1972 to nearly $5.5 million in FY 1976. The annual proceeds of the ½ percent tax on premiums and assessments of domestic fire insurance companies are very minor and tend to be erratic from year to year (Table 9).

Statutory basis--Section 26-01-11, NDCC, as amended by S.L. 1975, chapter 250.

Retail Sales and Use Taxes

The retail sales tax is levied upon the gross receipts from retail sales of tangible personal property, gas, communication services, electricity, water, magazines, recreation and amusements receipts, hotel and motel accommodations, and the renting of tangible personal property.

TABLE 9. ANNUAL REVENUE PRODUCED BY INSURANCE PREMIUM TAXES, 1972 TO 1976

Fiscal Year Ending June 30	2½% Tax on Premiums of Foreign Firms	½% Tax on Domestic Fire Insurance Companies	Total
	- - - - - - - - - *thousands of dollars*	- - - - - - - - -	
1972	3,651	43	3,694
1973	3,927	33	3,960
1974	4,300	38	4,338
1975	4,884	40	4,924
1976	5,499	59	5,458

SOURCE: Office records of North Dakota Commissioner of Insurance.

The retail sales tax base has been changed frequently by the Legislative Assembly. The 1969 Legislative Assembly broadened the base to include sales of beer, wine, liquor, cigarettes, cigars, tobacco, and snuff (all of which had previously been exempt because they were--and still are--subject to special excise taxes). Some minor exemptions became effective on January 1, 1970. The 1973 Legislative Assembly reduced the base by exempting food and and food products for human consumption off the premises where purchased. This exemption applies mainly to groceries and does not exempt prepared foods served or sold by restaurants, cafes, and drive-ins. The 1975 Legislative Assembly exempted coal mined and consumed within North Dakota from the sales tax when it adopted the coal severance tax. Prior to July 1, 1975, sales taxes on coal were especially high in those counties containing large electrical generating plants.

Sales of motor vehicles (which are subject to a special motor vehicle excise) are also exempt. Sales of personal property for "resale" or "processing" are exempt, as are sales of commercial fertilizers, fungicides, herbicides, feeds, and seeds used for agricultural purposes. Other exemptions include drugs sold under a doctor's prescription, newspapers, personal services, transportation service provided by common carriers, and gasoline (which is subject to a special excise). Also exempt are sales to a governmental agency, to schools for lunch programs, and sales of over $10 made to residents of an adjoining state that does not impose a sales or use tax.

The use tax is a companion tax to make the sales tax more effective. It is levied on the sales price of tangible personal property purchased outside of North Dakota for storage, use, or consumption within the state. The use tax does not apply to any sale that is subject to the retail sales tax. Machinery, equipment, and building supplies brought into the state for mining purposes and for the construction of thermogenerators and gasification plants are subject to the use tax.

Tax rates generally have been the same for both the retail sales tax and the use tax. Since January 1, 1970, the tax rate has been 4 percent for both sales and use taxes. On November 2, 1976, the voters adopted an initiated measure which: (1) exempted sales of eletricity from sales taxes; (2) reduced the tax rate on sales of farm machinery and irrigation equipment to 2 percent of sales price; and (3) reduced the tax rate on all other taxable commodities to 3 percent. These changes become effective January 1, 1977. Under the North Dakota Constitution, an initiated measure may not be vetoed by the Governor, nor may it be amended or repealed except by a roll-call vote of two-thirds of the membership in each house of the Legislative Assembly.

In recent years the largest contributors to sales and use tax collections have been sales of farm machinery, lumber, and building supplies, followed by sales of food and drinks in restaurants and bars, utilities, department and other clothing stores, and electrical supply stores.

All proceeds of the sales and use taxes are deposited in the State General Fund. Despite the increased number of exemptions, the annual amount of revenue has been increasing steadily in recent years as will be seen from the following:[15]

Fiscal Year Ending June 30	Thousands of Dollars
1972	53,951
1973	61,406
1974	69,817
1975	82,361
1976	95,814

Statutory basis--Chapter 57-39.2, NDCC, as amended by S.L. 1973, chapter 465, 475, 478, and 480; and S.L. 1975, chapter 545 and 553; and chapter 57-40.2, NDCC, as amended by S.L. 1973, chapter 465; and S.L. 1975, chapter 550 and 551.

[15]SOURCE: Biennial Reports of North Dakota Tax Commissioner and office records of State Tax Department.

Excise Taxes on Cigarettes and Tobacco Products

These excise taxes are administered by the State Tax Commissioner. Stamps and meter units for cigarettes may be purchased by the wholesaler or manufacturer from the Tax Commissioner and affixed to packages before sale to retailers.

Cigarettes weighing less than three pounds per 1,000 are taxed at the rate of 11 cents per package of 20 and those weighing more than three pounds per 1,000 at 12 cents per package. Tobacco products other than cigarettes are taxed at 11 percent of wholesale purchase price.

Three cents of the per package tax on cigarettes are distributed among all cities on the basis of population, according to the latest official census. The remainder is placed in the State General Fund. All collections from the tax on other tobacco products are placed in the State General Fund.

The annual amounts of revenue produced by the cigarette and tobacco taxes in recent years were as follows:[16]

Fiscal Year Ending June 30	Cigarette Tax[17] (*$1,000*)	Tax on Other Tobacco Products (*$1,000*)
1972	6,924	168
1973	7,327	168
1974	7,545	175
1975	7,970	187
1976	8,496	185

Statutory basis--Chapter 57-36, NDCC.

Excise Taxes on Alcoholic Beverages

Excise taxes are imposed on sales of alcoholic beverages by wholesalers in addition to the 4 percent general retail sales tax. These excise taxes are administered by the State Treasurer. The tax rates are as follows:

Beer in bulk containers, 8 cents per wine gallon.
Beer in bottles and cans, 16 cents per wine gallon.
Wine, containing less than 17 percent alcohol by volume, 50 cents per wine gallon.
Wine, containing 17 percent to 24 percent alcohol by volume, 60 cents per wine gallon.
Sparkling wine, $1 per wine gallon.
Distilled spirits, $2.50 per wine gallon.
Alcohol, $4.05 per wine gallon.

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[16] SOURCE: Office records of North Dakota State Treasurer.

[17] Approximately 28 or 29 percent of these amounts are apportioned among incorporated cities on a population basis.

Alcohol used for certain nonbeverage purposes is exempt from this excise. Beer with not more than 3.2 percent alcohol sold to military exchanges is also exempt.

All proceeds of the alcoholic beverage taxes are deposited in the State General Fund. Annual collections during the 1972-76 period were as follows:[18]

Fiscal Year Ending June 30	Liquor Tax ($1,000)	Beer Tax ($1,000)
1972	3,073	1,891
1973	3,388	2,084
1974	3,702	1,992
1975	3,677	2,208
1976	3,446	2,060

Statutory basis--Chapter 5-03, NDCC.

Tax on Sales of Performing Rights to Copyrighted Musical Compositions

Those who sell or license performing rights to copyrighted musical or dramatico-musical compositions are assessed a tax of 5 percent of the gross receipts from such sales or licenses. This tax is administered by the State Tax Commissioner who transmits the collections to the State Treasurer for deposit in the State General Fund. This tax probably is more important for the protection it affords composers of copyrighted music than for the small amount of annual revenue it produces as will be seen from the following:[19]

Fiscal Year Ending June 30	Amount of Revenue ($1,000)
1972	10
1973	11
1974	9
1975	12
1976	13

Statutory basis--Chapter 47-21, NDCC.

Motor Vehicle Fuel Tax

The retail sales tax of 7 cents per gallon on gasoline is one of the more important sources of funds for state and local highways in North Dakota.

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[18] SOURCE: Office records of the North Dakota State Treasurer.

[19] SOURCE: Office records of North Dakota State Tax Commissioner.

It is administered by the State Tax Commissioner who is authorized to enter into reciprocity agreements with neighboring states regarding taxation of motor vehicle fuel. The tax is refundable on fuel used for aeronautical, agricultural, and industrial purposes.

The net collections from the motor vehicle fuel tax, after refunds, are placed in the Highway Distribution Fund along with other designated revenues. This fund is apportioned among the State Highway Department, counties, and cities for highway purposes.[20] The net proceeds available for highway purposes increased 13.3 percent from nearly $20.1 million in FY 1972 to $22.7 million in FY 1976 (Table 10). Since there was no change in the tax rate per gallon during this period, the increased proceeds were due primarily to increased volume of gasoline sold.

Statutory basis--Chapter 57-54, NDCC, as amended by S.L. 1973, chapter 487.

TABLE 10. PROCEEDS FROM THE MOTOR VEHICLE FUEL TAX, 1972 TO 1976

Fiscal Year Ending June 30	Gross Tax Collections[a]	Amount of Refunds Paid	Net Amount Available for Highway Purposes
	- - - - - - - - -	*thousands of dollars*	- - - - - - - - -
1972	25,230	5,166	20,064
1973	25,851	4,910	20,941
1974	25,627	4,913	20,714
1975	25,877	4,451	21,426
1976	27,057	4,327	22,730

[a]Includes a small amount of penalties and interest.

SOURCE: Compiled from office records of Transportation Services Division, North Dakota State Highway Department, Bismarck.

Special Fuel Tax and Special Fuel Excise Tax

These two taxes, administered by the State Tax Commissioner, apply to retail sales of diesel fuel, liquified petroleum gas (butane and propane) and all other motor fuels except gasoline. The special fuel tax applies mainly to special fuels used in motor vehicles on public highways. Taxes

[20]See subsequent section on "Financial Assistance for Local Streets, Roads, and Highways" for method of apportionment.

paid on these special fuels for agricultural, heating, industrial, and railroad purposes are refundable upon application to the State Tax Commissioner. The special fuel excise tax, on the other hand, applies to sales of special fuels that are used for nonhighway purposes listed above, which are subject to fuel tax refunds. Special fuel tax is 7 cents per gallon. The special fuel excise tax is 2 percent of retail sales price.

The State Tax Commissioner transmits all proceeds from both the special fuel tax and the special fuel excise tax to the State Treasurer. The Treasurer holds a sufficient amount of these moneys in a suspense account to cover payment of refunds and deposits the rest in the Highway Tax Distribution Fund, which in turn is apportioned among the State Highway Department, counties, and cities.

The annual gross collections on these two special fuel taxes increased steadily from $4.9 million in FY 1972 to $7.1 million in FY 1976. The net amounts collected after payment of refunds increased 56 percent from $3.9 million in FY 1972 to over $6.1 million in FY 1972 (Table 11).

Statutory basis--Chapter 57-52 and chapter 57-53, NDCC, as amended by S.L. 1973, chapter 487.

Aviation Fuels Excise Tax

The 1973 Session of the Legislative Assembly increased the excise tax on jet fuel from 2 percent to 4 percent of sales price and the 1975 Session raised the excise tax on aviation gasoline from 2 percent to 4 percent of sales price. Dealers, however, do not collect these excise taxes, but instead collect the regular 7 cents per gallon highway motor fuel taxes, which they remit to the State Tax Commissioner. Purchasers of aviation gasoline or jet fuel may file with the State Tax Commissioner for refunds of the highway fuel tax, which amounts to considerably more than the aviation fuel excise tax. The State Tax Commissioner subtracts the amount of the aviation fuel excise before remitting the highway fuel tax refunds to the purchasers.

The collection and refund system is supposed to minimize double taxation of aviation fuels. Some highway fuel refunds, however, are never paid to purchasers of aviation fuels because: (1) some purchasers fail to file for refunds within the prescribed time period; (2) some purchasers may file, but the State Tax Commissioner is unable to deliver the refund check; and (3) no refunds for less than $10 may be paid. The State Treasurer puts

TABLE 11. SPECIAL FUELS TAX COLLECTIONS AND DISTRIBUTION OF PROCEEDS, 1972 TO 1976

Explanation	Fiscal Years Ending June 30 1972	1973	1974	1975	1976
	thousands of dollars				
Collections:					
Special Fuels Tax (7¢ per gallon)	3,913	3,923	4,261	4,402	4,833
Special Fuels Excise (2% of price)	1,005	1,073	1,546	2,088	2,302
Special License Fees	4	15	7	11	5
Penalties and Interest	---	---	6	6	9
Total Collections	4,922	5,011	5,820	6,507	7,149
Payments to State Treasurer:					
For Special Fuels Tax Refunds	951	813	787	975	971
For Highway Tax Distribution Fund	3,971	4,198	5,033	5,532	6,178
Total Amounts to State Treasurer	4,922	5,011	5,820	6,507	7,149
Refunds Actually Paid	989	834	545	1,144	1,021
Net Proceeds from Special Fuels Taxes for Highway Purposes	3,933	4,177	5,275	5,363	6,128

SOURCE: Office records of Motor Fuels and Miscellaneous Taxes Sections, State Tax Department, and Transportation Services Division, State Highway Department, Bismarck.

these unpaid refunds in a special fund which may be spent by the State Aeronautics Commission for construction and maintenance of airstrips near highways and small communities.

The amount of excise taxes on aviation gasoline and jet fuels collected by the State Tax Commissioner is deposited in the Aeronautics Commission Construction Fund which is used to help finance construction and reconstruction of airports. The amount of aviation fuels excise taxes collected increased very rapidly between FY 1972 and FY 1976, not only because of increases in tax rates mentioned above, but also because of increased prices (Table 12).

Statutory basis--Chapter 57-50, NDCC, as amended by S.L. 1973, chapter 486; and by S.L. 1975, chapter 557; and chapter 57-56, NDCC, as amended by S.L. 1973, chapter 489; and by S.L. 1975, chapter 560.

Motor Vehicle Excise Tax

Motor vehicles are exempt from the general sales and use taxes, but are subjected to a motor vehicle excise tax on the purchase price, which generally has been at the same percentage of purchase price as have the sales and use taxes. The present tax rate is 4 percent of purchase price.

The motor vehicle excise tax applies to any purchase or acquisition of a vehicle to be used on North Dakota streets and highways, regardless of whether the transfer occurred within or outside of the state. Purchase price is defined as list price, less trade-in, or fair market value if the vehicle is acquired by means other than purchase. The tax is collected by the Motor Vehicle Registrar, as agent for the State Tax Commissioner. Payment of the motor vehicle excise tax is a prerequisite to motor vehicle registration and obtaining license plates.

One-half of the motor vehicle excise taxes on acquisitions that take place outside of North Dakota is credited to the Motor Vehicle Registration Fund and the other half goes into the State General Fund. All excise taxes on acquisitions occurring within the state go into the State General Fund. Annual collections of motor vehicle excise taxes more than doubled between FY 1972 and FY 1976 as will be shown on the next page.[21]

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[21] SOURCE: Biennial Reports of State Tax Commissioner and office records of State Tax Department.

TABLE 12. AVIATION FUELS TAX COLLECTIONS AND DISTRIBUTION OF PROCEEDS, 1972 TO 1976

Explanation	1972	1973	1974	1975	1976
	Fiscal Years Ending June 30				
	thousands of dollars				
Collections:					
Highway Fuel Tax (7¢ per gallon)	190	158	170	173	212
Aviation Fuel Excise Tax	64	51	42	206	201
Total Collections	254	209	212	379	413
Payments to State Treasurer:					
For Highway Fuel Tax Refunds[a]	138	102	101	115	142
For Aeronautics Special Fund[a]	52	56	69	58	70
For Aeronautics Construction Fund	64	51	42	206	201
Total Amounts to State Treasurer	254	209	212	379	413
Refunds Actually Paid	119	140	115	122	126
Net Proceeds from Aviation Fuels Taxes Available for Aeronautics Purposes	135	69	97	257	287

[a]Motor fuel taxes paid on gasoline used for aviation purposes and for which no refunds are claimed or paid are credited to State Aeronautics Special Fund.

SOURCE: Office records of Motor Fuels and Miscellaneous Taxes Section, State Tax Department, and Transportation Services Division, State Highway Department, Bismarck.

Fiscal Year Ending June 30	To Motor Vehicle Registration Fund ($1,000)	To State General Fund ($1,000)
1972	346	6,674
1973	497	8,189
1974	758	10,570
1975	758	11,339
1976	836	13,587

This growth in annual revenues resulted from increases in number of vehicles purchased, as well as from increase in vehicle prices.

Statutory basis--Chapter 57-40.3, NDCC, as amended by S.L. 1973, chapter 482, 483, and 484; and by S.L. 1975, chapter 554, 555, and 556.

Motor Vehicle Registration Fees

Motor vehicles have been exempt from property taxes in North Dakota for many years; instead they have been subjected to annual registration taxes or fees, administered by the Motor Vehicle Registrar. Motor vehicle registration is primarily for identification purposes, but the registration fees are high enough to bring in significant amounts of revenue.

The registration fees vary with the weight and age of the vehicle as measured by number of years registered. The fees on passenger cars range from $11 for a 10-year old car weighing less than 2,000 pounds to $215 for a car less than four years old and weighing 9,000 pounds or more. Fees on trucks range from $11 for a truck under 4,000 pounds and eight years old or older to $1,136 for a new truck weighing 80,000 pounds or more. Commercial trucks with a gross weight of 12,000 to 24,000 pounds are liable to an additional tax of $4 per ton. The fee schedule for farm trucks is considerably lower than that for commercial trucks.

The Legislative Assembly appropriates enough from the Motor Vehicle Registration Fund each biennium to cover the budgeted expenses of the Motor Vehicle Department. This amounts to $3,143,541 for the 1975-77 biennium. The balance in the Motor Vehicle Registration Fund is credited to the Highway Tax Distribution Fund, which in turn is apportioned among the State Highway Department, counties, and cities.

The annual amount collected from motor vehicle registrations increased 26 percent from $13.4 million in FY 1972 to $17.9 million in FY 1976 (Table 13). Only minor changes were made in the rate structure during this period

TABLE 13. ANNUAL REVENUE FROM MOTOR VEHICLE REGISTRATIONS, BY TYPE OF VEHICLE, 1972 TO 1976

Type of Vehicle	Fiscal Year Ending June 30 1972	1973	1974	1975	1976
	- - - - - - - *thousands of dollars*				- - - - - - -
Passenger Vehicles	8,005	8,537	9,097	9,470	9,877
Trucks	5,313	5,611	6,485	7,166	7,884
Buses	9	8	8	4	5
Motorcycles	78	93	113	122	125
Public Vehicles	22	23	23	25	25
Total Registration Taxes	13,427	14,272	15,726	16,787	17,916

SOURCE: North Dakota State Highway Department, Transportation Services Division, North Dakota Highway Statistics: 1975, and office records of the Division.

and most of the increased revenue resulted from increases in the number of registrations.

Statutory basis--Chapter 39-04, NDCC, as amended by S.L. 1973, chapter 286, 287, 288, 289, 290, 291, 292, 293, 294, 295; and S.L. 1975, chapter 265 326, 327, 328, 329, and 330.

Taxation of Large Coal-Conversion Plants

The 1975 Legislative Assembly revised considerably the taxation of electric generating plants and other coal-conversion facilities without specifically repealing any of the existing laws. If the various statutes are construed together, the tax applicable to any particular plant will be seen to depend upon the size of plant and type of ownership as follows:

(1) A thermogenerator with a capacity of less than 100 megawatts that is owned by a rural electric cooperative is subject to the annual gross receipts tax, levied against all REC's under Chapter 57-33, NDCC. The W. J. Neal thermogenerator in McHenry County, now owned by Basin Electric, has a capacity of 38.5 megawatts and hence falls into this category.

(2) A thermogenerator with a capacity of 100 to 120 megawatts that is owned by an REC would be subject to an annual gross receipts tax, the proceeds of which are to be apportioned between the State General Fund and certain local governments as set forth in chapter 57-33.1, NDCC. At present, there are no thermogenerators in this

category. Prior to July 1, 1975, when the 1975 law went into effect, three thermogenerators were taxed under chapter 57-33.1; namely, Basin Electric's Leland Olds No. 1, Minnkota's Milton R. Young No. 1, and United Power Association's Stanton Plant.

(3) The assessed valuation of a thermogenerator having a capacity of less than 120 megawatts and owned by an investor owned power company is included in the assessed valuation of the company that is determined by the State Board of Equalization, and against which are applied the state and local millage rates. Until recently there were several of these small, investor owned thermogenerators in various cities, but the only ones still in operation are the two owned by Montana-Dakota Utilities--the 13.5 megawatt plant in Beulah and the 100 megawatt Heskett plant at Mandan.

(4) All large coal-conversion plants, regardless of ownership, are subject to an annual privilege tax, imposed by S.L. 1975, chapter 562. A large coal-conversion plant, as defined by this act, is either: (a) a thermogenerator with a capacity of 120 megawatts or more or (b) a plant designed to utilize 500,000 tons or more of coal per year in the manufacture of gas, liquid fuels, fertilizers, or other products. The Husky Briquetting Plant at Dickinson has never used more than 200,000 tons of lignite in a year and presumably will continue to be assessed locally for ad valorem tax purposes as are other small manufacturing plants. The existing and proposed coal-conversion plants that will be taxed under the 1975 act are shown in Table 14. The rest of this section describes the tax imposed by this act.

The annual tax on large thermogenerating plants is twenty-five one-hundredths of a mill (i.e., \$.00025) per kilowatt hour of electricity produced for sale. The annual tax on a coal gasification plant is either 10 cents per 1,000 cubic feet of gas produced for sale or 2½ percent of annual gross receipts, whichever is greater. The tax on all other coal-conversion plants is 2½ percent of gross receipts. For taxation purposes, coal-conversion facilities are classified as personal property and are exempt from all ad valorem taxes, except taxes against the land on which the facilities are located.

TABLE 14. EXISTING AND PROPOSED COAL-CONVERSION PLANTS IN NORTH DAKOTA, SUBJECT TO TAXES IMPOSED BY S.L. 1975, CHAPTER 562, AS OF JANUARY 1, 1976

Name of Company	Name of Plant	Location (county)	Capacity[a] In Operation	Under Construction	Proposed
Electric Generators:					
Basin Electric Power Cooperative	Leland Olds #1	Mercer	215.7	---	---
	Leland Olds #2	Mercer	460.0	---	---
	Antelope Valley	Mercer	---	---	460
Minnkota Power Cooperative, Inc.	Milton R. Young #1	Oliver	234.6	---	---
	Milton R. Young #2	Oliver	---	440	---
	Milton R. Young #3	Oliver	---	---	450
Otter Tail Power Company, et al.[b]	Coyote Creek #1	Mercer	---	---	440
United Power Association	Stanton	Mercer	172.0	---	---
United Power Association and Central Power Assn.	Coal Creek #1	McLean	---	486	---
	Coal Creek #2	McLean	---	486	---
Gasification Plants:					
American Natural Gas Co.	Beulah	Mercer	---	---	250
Natural Gas Pipeline Company of America	Dunn Center	Dunn	---	---	250

[a]Capacity of thermogenerators is given in megawatts; capacity of gasification plants is given in millions of cubic feet of pipeline gas per day.
[b]Montana-Dakota Utilities Company, Northwestern Public Service Company, Minnkota Power Cooperative, and Minnesota Power and Light Company.

The coal-conversion tax on electrical generating plants is to be paid within 30 days after the end of each calendar quarter. The tax on other types of energy-conversion plants is to be paid annually as of June 15 of the year in which such taxes are levied.

This coal-conversion tax is in lieu of the annual gross receipts tax levied against all rural electric cooperatives in accordance with chapter 57-33, NDCC, and the annual electric franchise tax levied against those cooperatives that operate electrical generators pursuant to chapter 57-33.1, NDCC. These exemptions became effective July 1, 1975. A portion of the 1974-75 taxes had accrued under these acts for payment after July 1, 1975. To prevent double taxation under both the 1975 coal-conversion act and the previous gross receipts tax or the electrical franchise tax, cooperatives were to be credited for the amounts paid on these older taxes against the new coal-conversion taxes that became payable during FY 1976.

The proceeds of the coal-conversion tax on each facility is apportioned by the State Treasurer between the State General Fund and the county in which the plant is located, according to the following schedule:

Annual Amount of Tax on each Plant	Percent to State General Fund	Percent to the County
First $100,000	0	100
Second $100,000	50	50
Amount Between $200,000 and $500,000	75	25
Amount Between $500,000 and $1,000,000	85	15
Amount Above $1,000,000	90	10

The amount received by each county is apportioned as follows:

15 percent is divided among all incorporated cities in the county according to the population of each as shown by the last decennial Federal census.

40 percent is deposited in the county general fund.

45 percent is divided among all school districts in the county on the basis of average daily attendance.

An opinion of the North Dakota Attorney General held that the apportionments between the State General Fund and the counties are to be made by calendar years rather than by fiscal years. The actual collections during the 1975-76 fiscal year thus had to be apportioned partly as 1975 receipts and partly as 1976 receipts. This resulted in the counties getting an unusually high proportion during the first 12 months the law was in effect. The total collections from the three large thermogenerating cooperatives totaled $972,721 during the 12-month period ending June 30, 1976, of which

$230,738 was credited to the State General Fund. The apportionments to local governments were as follows:[22]

* Governmental Unit	Mercer County	Oliver County
County General Fund	$188,026	$108,911
School Districts	211,529	122,525
Incorporated Cities	70,510	40,842
Total	$470,065	$272,278

It must be remembered that these collections were on taxes that accrued during the last two calendar quarters of 1975 and the first two calendar quarters of 1976. Since parts of the two calendar years were involved, unusually high proportions of the proceeds were apportioned to the counties. The above apportionments are not indicative of annual distributions in calendar year 1976 and subsequent years. Seven or eight years in the future when the three thermogenerators, now under construction, and the four existing plants are all operating at near capacity, the total annual tax might be as much as $5,006,000 apportioned between the State General Fund and local governments as follows:

Name of Plant	State General Fund	Mercer County	Oliver County	McLean County
	- - - - - - - - -	($1,000)	- - - -	- - - -
Leland Olds #1 and #2	800	316	---	---
UPA Stanton	564	276	---	---
Milton R. Young #1 and #2	925	---	325	---
Coal Creek #1 and #2	1,420	---	---	380
Total	3,709	592	325	380

Legislative basis--S.L. 1975, chapter 562. Now coded as chapter 57-60, NDCC.

Taxation of Transmission Lines

The value of transmission lines and distribution systems of investor-owned public utility companies are included with other types of property in the assessed value of each utility determined by the State Board of Equalization. This means that such transmission lines, regardless of size or capacity, are subject to state and local property tax levies.

In the case of rural electric cooperatives, which are subject to annual gross receipts and kilowatt-hour taxes in lieu of ad valorem taxes, a special

[22] These figures are net collections; that is, total liability for the coal-conversion tax, minus credit claimed for payments on the cooperative electric generation tax.

tax of $150 per mile is imposed on transmission lines having a capacity of 230 kilowatts or more. All revenues from this tax are apportioned among the counties in which the lines are located on a line-mileage basis. The amount received by each county is deposited in the county general fund. Total annual proceeds from 1972 to 1976 were as follows:[23]

Year Ending June 30	Annual Amount of Taxes
1972	$ 88,110
1973	88,110
1974	88,335
1975	88,335
1976	127,989

Statutory basis--Chapter 57-33.1, NDCC. The transmission lines tax is about the only relevant material left in this chapter, since all the rest has been superceded by the 1975 law providing for the taxation of large coal-conversion plants. Some legislators feel that leaving this relatively unimportant tax in the statutes was an oversight and have called for the repeal of chapter 57-33.1, NDCC.

Oil and Gas Production Tax

This production tax is in lieu of all ad valorem taxes that might be levied by any taxing unit. The tax is collected by the State Tax Commissioner, usually from the purchaser of the oil or gas, but occasionally from the producer. The tax rate is 5 percent of gross value at the well. Twenty percent of the annual proceeds from each county is credited to the State General Fund and the other 80 percent is divided as follows:

Amount of Annual Revenue	Percent to State General Fund	Percent to County of Production
First $200,000	25	75
Second $200,000	50	50
All Annual Revenue in Excess of $400,000	75	25

Amounts apportioned to each county are distributed as follows:

(1) 40 percent is credited to county road and bridge fund. (The board of county commissioners may use some of this apportionment for groundwater and surface water surveys.)

(2) 45 percent is divided among all school districts in the county according to number of pupils in average daily attendance.

(3) 15 percent is divided among all incorporated cities in the county according to population as shown by the last decennial Federal census.

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[23]Office records of State Tax Department.

The total revenue from the petroleum production tax was nearly 2½ times as great during FY 1976 as in FY 1972--$8.6 million as compared to $3.2 million (Table 15). All of this increase was due to increased prices of crude oil and natural gas because production in North Dakota declined steadily during this period.

TABLE 15. DISTRIBUTION OF PROCEEDS FROM OIL AND GAS PRODUCTION TAX, BY FISCAL YEARS, 1972 TO 1976

Year Ending June 30	To State General Fund	Returned to Counties	Total Amount Distributed[a]
	- - - - - - - - - *thousands of dollars*	- - - - - - - -	
1972	1,647	1,548	3,195
1973	1,665	1,598	3,263
1974	3,097	2,176	5,273
1975	4,280	2,638	6,918
1976	5,584	3,033	8,617

[a]Amounts actually collected differ somewhat from amounts distributed because of refunds and the fact that some collections are received in one fiscal year, but distribution is not made until the next fiscal year.

SOURCE: Office records of North Dakota State Treasurer, Bismarck.

Statutory basis--Chapter 57-51, NDCC.

Severance Tax on Coal Production

This is a temporary tax adopted by the 1975 Legislative Assembly on an experimental basis. By its own wording, it will expire on June 30, 1977. The 1977 Legislative Assembly probably will not find it desirable to terminate coal taxation entirely, but will either reenact the 1975 tax, with or without changes, or adopt an entirely different method for taxing the coal mining industry. The 1975 severance tax is in lieu of all sales and use taxes on coal.

The base rate is 50 cents per ton of coal mined. This rate is adjusted for inflation by use of the U.S. Department of Labor wholesale price index. For every 3-point increase in this index, the tax rate is increased 1 cent per ton. This is a "ratchet" adjustment--the tax cannot be reduced even though the wholesale price index declines. The rate during the second quarter of FY 1977 is 54 cents per ton.

The tax is paid quarterly by the mining companies with the tax proceeds apportioned as follows:

(1) 30 percent is deposited in the State General Fund.

(2) 30 percent is credited to a permanent trust fund, administered by the Board of University and School Lands. The trust fund may not be spent, but income from the investments of this trust fund are deposited in the State General Fund.

(3) 35 percent is credited to the State Coal Development Impact Fund from which grants are made to cities, counties, school districts, and other taxing jurisdictions. (See subsequent section on Coal Impact Grants.)

(4) 5 percent is distributed among the coal-producing counties according to the amount of coal each produces annually. The allotment for each county is deposited in its general fund.

The amount of severance taxes collected annually under a law, such as the 1975 act, depends largely on the tonnage of coal mined. The annual inflation adjustment in the tax rate is not expected to be very great, probably not more than 3 or 4 cents per ton. Over 95 percent of North Dakota's coal production is used in generating electricity. The general trend of production has been upward as will be seen from the following:[24]

Year Ending June 30	Thousands of Tons
1970	5,002
1971	5,821
1972	6,344
1973	6,799
1974	7,183
1975	7,111
1976	10,710

Two large thermogenerators went on line during 1975-76; Big Stone (fueled by the Gascoyne Mine in Bowman County) and Leland Olds No. 2 (fueled by the Glenharold Mine in Mercer County).

Severance taxes paid on the 1975-76 production totaled $5,522,715 or an average of 51.6 cents per ton. The three large thermogenerating units now under construction are secheduled to come on line as shown on the following page.

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[24]Annual reports of North Dakota Coal Mine Inspector and figures released by North Dakota Public Service Commission.

Square Butte in Oliver County, 1977-78

Coal Creek No. 1 in McLean County, 1979-80

Coal Creek No. 2 in McLean County, 1980-81

If the 1977 Legislative Assembly reenacts the coal severance tax, the projected coal production and tax yields during the next four years would be about as follows:[25]

Year Ending June 30	1,000 Tons of Coal Mined	Average Severance Tax Per Ton	Amount of Severance Taxes ($1,000)
1977	12,000	55 cents	6,600
1978	14,500	58 cents	8,410
1979	17,000	61 cents	10,370
1980	19,500	64 cents	12,480

State Aids for Local Governments

North Dakota has established a number of state shared taxes and outright grants to assist local governments. Most of these have been mentioned in previous sections of this report. This section presents an overview of state financial assistance for three selected local governmental functions: (1) general administration, (2) streets and highways, and (3) schools. This involves summarizing some material discussed earlier by source of funds, as well as introducing additional information.

Personal property tax replacement grants--These grants comprise the largest and most pervasive type of state aid. The grants are made annually to practically all funds of all taxing jurisdictions. School districts, however, no longer receive these grants. Data needed for estimating the amount of the replacement grant to any particular jurisdiction include: (1) amount of the taxes levied against personal property by that unit in 1968 and (2) the amount of taxes levied against real estate in 1968 and in the year for which the estimate is wanted. For most taxing jurisdictions, the personal property tax replacement grant is equivalent to 15 to 18 percent of its real estate tax levy.

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[25]These projections were made by the author and are based on the following assumptions: (1) consumption of North Dakota coal by existing users will continue at the 1975-76 level, (2) labor disputes will not delay completion of the three thermogenerators beyond scheduled completion dates, (3) each generator will operate 92 percent of the time, with only 8 percent downtime for maintenace work and temporary lack of demand, (4) prolonged labor disputes at the mines will not require importation of coal from Montana, and (5) the public utilities and generating cooperatives will be able to market the assumed production of electricity.

<u>Financial assistance for general fund expenditures</u>--In addition to personal property tax replacement grants, counties may use their respective shares of the following taxes for any purpose that can be financed out of their general funds: estate taxes, energy conversion taxes, high-voltage transmission line tax, and coal severance taxes.

Among the state financial aids that cities may use for general fund expenditures are their share of the proceeds of estate taxes, cigarette taxes, energy conversion taxes, oil and gas production tax, and coal severance tax.

<u>Financial assistance for local streets, roads, and highways</u>--The State Highway Tax Distribution Fund is the source of the largest amounts of state aid for these purposes for both cities and counties with lesser amounts coming from personal property tax replacement grants. The county road and bridge fund also receives a portion of the oil and gas severance tax on petroleum produced within the county.

The Highway Tax Distribution Fund consists of apportionments from four state taxes: (1) receipts from motor vehicle registration taxes, less amounts appropriated by the Legislative Assembly to cover budgeted expenses of the Motor Vehicle Department; (2) proceeds from the motor vehicle fuel tax (gasoline), less amounts withheld by the Tax Department to cover operating expenses of its Gas Tax Division; (3) proceeds from the special fuels tax (LPG and diesel fuel), less amounts withheld by the Tax Department for paying tax refunds; and (4) receipts from the special excise tax on diesel fuel and LPG sold for nonhighway purposes. The annual amounts available for distribution during FY 1972 to FY 1976 are shown in the upper part of Table 16.

The available amounts in the Highway Tax Distribution Fund are apportioned monthly among the State Highway Department, counties, and cities by a rather complicated procedure, as follows:

(1) 63 percent of the available amount is transferred to the State Highway Department.

(2) The remaining 37 percent is allotted among the counties for expenditure on county roads and city streets according to the number of registered motor vehicles in each county.

(3) Of the amount so allotted to each county, 73 percent goes into the county highway fund and 27 percent is divided among all incorporated cities in the county on the basis of population as shown by the latest official census.

TABLE 16. HIGHWAY TAX DISTRIBUTION FUND: RECEIPTS BY SOURCE AND DISTRIBUTIONS BY TYPE OF GOVERNMENTAL AGENCY, 1972 TO 1976

Receipts by Source and Distributions by Type of Agency	Fiscal Years Ending June 30				
	1972	1973	1974	1975	1976
	thousands of dollars				
Receipts Available for Distribution From:					
Motor Vehicle Registration Taxes[a]	13,972	14,638	16,484	17,626	18,919
Motor Vehicle Fuel Tax (Gasoline)[b]	20,255	20,826	20,360	21,110	22,727
Special Fuels Tax (Diesel and LPG)[c]	2,966	3,124	3,487	3,444	3,876
Special Fuels Excise Tax	1,005	1,073	1,546	2,088	2,302
Total Available for Distribution[d]	38,198	39,661	41,877	44,268	47,824
Amounts Actually Distributed:					
To State Highway Department	23,415	25,223	26,976	27,523	29,712
To Counties	10,039	10,814	9,770	9,905	10,732
To Cities	3,713	4,000	6,073	6,260	6,718
Total Amount Distributed[d]	37,167	40,037	42,819	43,688	47,162

[a]Net amount available for distribution.
[b]Net amount available for distribution; that is, gross receipts less amounts withheld for refunds and for operations of Gas Tax Division of State Tax Department.
[c]Net amount available for distribution; that is, gross receipts less amounts withheld for refunds.
[d]Receipts and total distributions do not agree by years, because of undistributed fund balances.

SOURCE: Compiled from data in North Dakota Highway Statistics: 1975, Transportation Services Division, North Dakota State Highway Department, Bismarck.

(4) However, in any county having a city with a population of 10,000 or more, the amount transferred to the county highway fund is the difference between the amount allocated to that county and the total amount allocated to the incorporated cities according to the following formula:

(a) The statewide per capita average for all cities is computed by dividing the total amount for cities (that is, 27 percent of the amount in the Highway Distribution Fund) by the total population of all cities in the state.

(b) The share to each city in the county having a population less than 1,000 is determined by multiplying the population of that city by the product of 1.5 times the statewide per capita average from step (a).

(c) The share of each city having a population of 1,000 to 4,999 is determined by multiplying the population of that city by the product of 1.25 times the statewide per capita average from step (a).

(d) The share to each city having a population of 5,000 or more is determined by multiplying the population of that city by the statewide per capita average from step (a).

The effect of rule No. (4), which was adopted by the 1973 Legislative Assembly as an amendment to section 54-27-19, NDCC, was to greatly increase the share going to cities in the eight counties containing cities with more than 10,000 inhabitants. During 1971 and 1972, for example, cities received an average of 27 percent of the local government allocations, while in 1975 and 1976, cities received an average of 38 percent of the local government allocations (see Table 16). Incidentally, the amounts received by a city from the Highway Tax Distribution Fund may be spent outside, as well as inside, the corporate boundaries of the city.

The apportionments from the Highway Tax Distribution Fund to the State Highway Department, counties, and cities during fiscal years 1972 to 1976 are given in the lower part of Table 16. Table 17 includes other state aids for local highways and streets, as well as the Highway Tax Distribution apportionments, during the same five-year period.

TABLE 17. STATE AID TO LOCAL GOVERNMENTS FOR HIGHWAYS, STREETS, AND ROADS, 1972 TO 1976

Local Governmental Unit and Source of State Aid	Fiscal Years Ending June 30				
	1972	1973	1974	1975	1976
	thousands of dollars				
Counties:					
Highway Tax Distribution Fund	10,039	10,814	9,770	9,905	10,732
Personal Property Tax Replacement	1,405	1,386	1,347	1,355	NA
Oil and Gas Production Tax	683	482	860	1,128	NA
Total State Aid to Counties	12,127	12,682	11,977	12,388	NA
Cities:					
Highway Tax Distribution Fund	3,713	4,000	6,073	6,260	6,718
Townships:					
Personal Property Tax Replacement	739	1,016	818	832	NA

SOURCE: Compiled from 1973, 1974, 1975, and 1976 editions of Highway Statistics of North Dakota, Transportation Services Division of North Dakota State Highway Department, Bismarck.

The Transportation Services Division of the State Highway Department has been able to estimate those portions of the county and township personal property tax replacement payments that should be available for local roads and highways. Cities, on the other hand, generally finance construction of city streets by special assessments against adjacent lots or by issuing bonds for projects of general benefits to the whole city. Consequently, cities generally do not maintain separate tax accounts for streets and highways as do counties, but include street repair and maintenance in their general fund budgets.

As indicated in the section on the oil and gas production tax, 40 percent of the amounts allotted to a county from the proceeds of this tax are credited to the county road and bridge fund. Fourteen counties received apportionments from the proceeds of the oil and gas production tax during FY 1975. The amounts credited to county road funds varied from $841 in McHenry County to $153,748 in Williams County and $166,365 in McKenzie County.

An estimated $1,300,000 to $1,400,000 will be available annually during 1975-76 and 1976-77 from the Coal Development Fund to aid local government in the areas impacted by coal and energy conversion developments. There is no way to predict the amounts of these apportionments for various purposes. It is quite possible that some funds will be granted to counties and cities for construction of highways and streets, although little of the funds granted during 1975-76 were for these purposes.

<u>State financial aids for operating local public schools</u>--State shared taxes and grants for local schools in North Dakota include: (1) proceeds of the tax on small rural telephone companies, (2) a portion of the county's share of the oil and gas production tax, (3) a portion of the energy conversion tax, (4) apportionments from the State Tuition Fund, and (5) grants from the State General Fund for the school foundation program.

The rural telephone tax is very minor. It produced only $252,000 in FY 1976. The proceeds were appportioned among many school districts, none of which received very much.

The annual proceeds from the oil and gas production tax have been increasing in recent years because of increased prices at the wellhead and discovery of several new fields. The apportionments among school districts totaled $1,271,000 in FY 1975. A total of 58 school districts in nine counties share in this tax, the amount per district ranging from just a few dollars to over $125,000 in the one school district in Billings County.

The coal-conversion tax, adopted by the 1975 Legislative Assembly, will produce significant amounts of revenue for school districts in McLean, Mercer, and Oliver counties. When all seven of the huge, modern thermo-generators are operating at near capacity--say, in about 1983 or 1984--the five school districts in Mercer will share $266,000; the nine in McLean will share $171,000; and the three in Oliver will share $146,000.

The State Tuition Fund consists of: (1) fines paid by those convicted of violating state laws; (2) rentals received from leasees of school lands, including bonuses paid on coal and oil and gas leases; and (3) interest and income earned on investments of the Permanent School Trust Fund. The latter originated from sale of school sections (that is, sections 16 and 36 of each township) that were granted by Congress to endow the common schools when North Dakota was admitted to the Union in 1889. Over 75 percent of the 2,523,000 acres in the original grant had been sold prior to June 30, 1975. Cancellation of defaulted sale contracts and land acquisitions because of defaulted mortgage loans on privately-owned land brought the total land holdings to 648,000 acres. Receipts from land sales over the years have been invested in farm mortgages and debt obligations of federal, state, and local governments. One-third of the Permanent School Fund is supposed to be invested in first mortgages on farmland, providing there is a demand for this type of financing.

The State Board of University and School Lands, which administers the lands and funds of the Common School Trust, as well as several state institutional trusts, has reserved part or all of the mineral rights in all land sales since 1939. The Common School Trust owns at least part of the mineral rights in an estimated 1,600,000 acres. Bonuses received at the time coal leases and oil and gas leases are awarded and annual delay rental received subsequently go into the State Tuition Fund. Royalty payments on both coal and petroleum production, however, are treated as resource sales and are credited to the Permanent School Fund.

The State Tuition Fund is apportioned quarterly among all school districts according to the number of children 6 to 18 years of age as shown by the biennial school census, taken in May of the odd numbered years. The apportionments have been increasing in recent years because of increased interest rates, increased mineral leasing activity, and a more aggressive policy regarding collection of delinquent rentals on agricultural lands as will be seen from the following:[26]

Fiscal Year Ending June 30	Thousands of Dollars
1971	$3,288
1972	3,465
1973	4,507
1974	4,748
1975	6,491
1976	5,503

The 1974-75 apportionment of $42.46 per child was the highest on records, but even so this amounted to less than 5 percent of total current operating expenditures of all school districts. Apportionments in fiscal 1976 were 15 percent less than in the previous year, primarily because of less oil and gas leasing activity.

The most important source of outside financial aid for local schools is the foundation program, funded by a countywide property tax levy for the county equalization fund and payments from the State General Fund. The foundation program payments to each district are based on current enrollments adjusted to average daily membership (ADM). The base payment per pupil in ADM was raised to $540 by the 1973 Legislative Assembly, which also removed the county equalization fund levy and all school district levies from the list of recipients of the personal property tax replacement grants. The 1975 Legislative Assembly increased the base rate to $640 per pupil for 1975-76 and to $690 per pupil for 1976-77.

The annual base rate is adjusted upwards and downwards for population sparsity (that is, size of school) and for kind of school (that is, elementary, junior high, or senior high). The adjusted rates for the various sizes and kinds of school for the current and previous biennium are given in Table 18.

In order to discourage the operation of nonaccredited high schools, a base rate of only $220 per pupil is used to compute the foundation payment for any high school district that fails to meet the statutory minimum requirements for curriculum and teacher certification.

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[26]Data from office records of North Dakota Department of Public Instruction.

TABLE 18. PER PUPIL RATES USED IN COMPUTING FOUNDATION PAYMENTS TO SCHOOL DISTRICTS, FISCAL YEARS 1974 TO 1977

Size and Type of School	Dollars Per Pupil in Average Daily Membership: 1973-74 and 1974-75	1975-76	1976-77
Base Rate	540.00	640.00	690.00
High Schools[a]			
Less Than 75 Pupils in ADM	918.00	1,088.00	1,173.00
75-149 Pupils in ADM	756.00	896.00	966.00
150-549 Pupils in ADM	712.00	844.80	910.80
550 or More Pupils in ADM	648.00	768.00	828.00
One-Room Elementary Schools (Grades 1-8)			
First 16 Pupils in ADM	702.00	832.00	897.00
For Each Additional Pupil Above 16[b]	486.00	576.00	621.00
Graded Elementary Schools (Grades 1-6)			
Less Than 100 Pupils in ADM			
First 20 Pupils in Each Classroom or Per Teacher	540.00	640.00	690.00
For Each Additional Pupil Above 20[c]	486.00	576.00	621.00
100 to 199 Pupils in ADM			
First 30 Pupils in Each Classroom or Per Teacher[d]	486.00	576.00	621.00
200 to 999 Pupils in ADM			
First 30 Pupils in Each Classroom or Per Teacher[d]	475.20	576.00	621.00
More Than 1,000 Pupils in ADM			
First 30 Pupils in Each Classroom or Per Teacher[d]	496.80	608.00	655.50
All Graded Elementary Schools, Except One-Room Schools, Grades 7 and 8			
First 30 Pupils in Each Classroom or Per Teacher[d]	e	640.00	690.00

[a]If a high school does not meet the statutory requirements for minimum curriculum or for teacher qualifications, the amounts per pupil are computed on a base rate of $220, instead of $540, $640, or $690 as shown in this table.
[b]Except that no payment will be computed for more than 20 pupils per classroom or per teacher.
[c]Except that no payment will be computed for more than 25 pupils per classroom or per teacher.
[d]Except that no payment will be computed for more than 30 pupils per classroom or per teacher.
[e]Pupils in 7th and 8th grades included with pupils in first to sixth grades in computation of amount per school.

SOURCE: S.L. 1973, chapter 127 and S.L. 1975, chapter 151.

The procedure for determining the foundation payment for each district is as follows:

(1) The number of enrolled elementary pupils in ADM is multiplied by the appropriate rate per pupil.

(2) The number of enrolled junior high school pupils in ADM is multiplied by the appropriate rate per pupil.

(3) The number of enrolled senior high school pupils in ADM is multiplied by the appropriate rate per pupil.

(4) The dollar amounts computed in Steps 1, 2, and 3 are totaled.

(5) The product of 20 mills, times the latest equalized taxable valuation of the district, is subtracted from the total in Step 4. (Inasmuch as the foundation-payment rates supposedly represent average costs per pupil in the various kinds and sizes of school, this subtraction practically forces each district to levy at least 20 mills for its general fund if it is to operate a minimum quality school sytem. In actual practice most districts are not satisfied with minimum quality and hence levy more than 20 mills. The normal maximum general fund levy for all school districts is 24 mills. The voters of the district, however, may authorize an excess levy of any amount above 24 mills for the general fund. They may also authorize levies for special funds, including public recration, junior college, school library, two-way communication systems in buses, and special education for exceptional children.)

(6) If the district is receiving Federal impact assistance under Public Law 81-874, the amount of the state group rate represented by the 21-mill county equalization fund levy multiplied by the number of students for whom the district received Public Law 81-874 impact aid is subtracted from the net amount after the 20-mill subtractions in Step 5.

(7) Transportation reimbursement for bus-type transportation is added to the net amount computed in Step 5 or Step 6, as the case may be. This payment is based on daily mileage of each bus, which is defined as twice the distance traveled for a single trip. The reimbursement rate for a bus with a capacity of less than 17 pupils is 12 cents per mile and for a bus with a capacity of 17 or more pupils is 26 cents per mile. In addition, a district operating buses with capacities of 17 or more pupils also gets 15 cents per pupil per day,

except that no payment is made for any pupil living within an incorporated city with a population in excess of 250 and an area of two square miles or more.

The millage rate for the county equalization fund of each county is computed by the State Superintendent of Public Instruction from the state average and county average sales price assessment ratios determined annually by the State Tax Department. If the average sales ratio for a county is the same as the state average, the tax rate for the county school equalization fund is set at 21 mills. If the county average sales ratio is either more or less than the state average ratio, the millage rate is changed from 21 mills to whatever millage rate would produce the same amount of revenue that 21 mills would produce if taxable property were assessed at the state average ratio.

This procedure was adopted to discourage competitive underassessment, because the amount of the state's contribution to the county equalization fund is several times larger than the county's contribution and the smaller the county's contribution the larger the state's contribution must be. (Section 15-40.1-01 to Section 15-40.1-19, NDCC, as amended by S.L. 1973, chapter 153, and S.L. 1975, chapter 131, 157, and 158.)

The School Foundation Program of all 53 counties in the state totaled slightly over $72 million annually in FY 1974 and FY 1975 of which more than $58 million or 81 percent came from the State General Fund. The Foundation Program is expected to increase to nearly $86 million in FY 1976 of which 84 percent will come from the State General Fund and to nearly $93 million in FY 1977 of which 85 percent will come from the State General Fund (Table 19).

TABLE 19. CONTRIBUTIONS TO SCHOOL FOUNDATION PROGRAM FROM COUNTY EQUALIZATION FUNDS OF ALL COUNTIES AND FROM THE STATE GENERAL FUND, FISCAL YEARS 1974 TO 1977

Fiscal Year Ending June 30	County Equalization Fund of All Counties	State General Fund	Total School Foundation Program
	- - - - - - - - *thousands of dollars*	- - - - - - - -	
1974[a]	13,748	58,364	72,112
1975[a]	13,958	58,495	72,453
1976[b]	13,968	71,888	85,856
1977[b]	13,968	78,627	92,595

[a]Data supplied by State Department of Public Instruction.
[b]Estimates by the author.

Each biennial session of the Legislative Assembly budgets a maximum amount from the State General Fund for foundation payments and the State Superintendent of Public Instruction is prohibited from awarding grants in excess of this amount. The amount appropriated for the 1973-75 biennium was $118,200,000 which was more than what was spent. The amount appropriated for the 1975-77 biennium is $153,378,000.

State aid for construction of school facilities--Although the policy of North Dakota has been to finance an ever increasing share of the operational costs of local schools from state funds, the financing of capital outlays has continued to be largely the responsibility of the local school districts.

A school board may issue bonds to finance construction of buildings and purchase of equipment when authorized by at least 60 percent of the electors voting on the question at a regular or special school election. The interest rate on the bonds sold privately may not exceed 8 percent, but there is no statutory maximum interest rate on bonds sold at public sale. Terms may not exceed 20 years. The county treasurer is the custodian of funds to retire school bond indebtedness and the county auditor must spread the required levies to provide sufficient revenue for the interest and sinking funds. (Subsection 6, section 21-03-07 to section 21-03-08, NDCC).

School district bonds are among the preferred investments of several state agencies, including the Board of University and School Lands that manage permanent funds. Smaller districts frequently sell bonds to such agencies. The large urban districts, however, usually can obtain financing at lower interest rates by dealing with private financial institutions.

Alternatives to bonding are available. The school board without authorization from the voters may establish a building fund by including this item in the district's annual budget. However, the amounts budgeted for construction may not exceed 20 percent of the total budget, which limits this alternative to relatively minor construction projects. The second alternative is to establish a building fund supported by a special property tax levy upon authorization by at least a 60 percent majority of the electors voting on the question at a general or special school election. The 1975 Legislative Assembly increased the maximum tax rate that the voters may authorize for the construction fund from 10 mills to 20 mills. (Section 57-15-16, NDCC, as amended by S.L. 1975, chapter 518.)

The North Dakota Constitution limits a school district's indebtedness to 5 percent of its assessed valuation, but this can be increased to 10 percent of the assessed valuation of the district by a majority vote of electors. (North Dakota Constitution, article XII, section 183.)

Erosion of the property tax base by exemptions and the common practice of assessing real estate at a small percentage of its current market value have made it difficult, if not impossible, for many districts to finance needed new construction. This is not a new phenomenon. The 1953 Legislative Assembly appropriated $5 million for a State School Construction Revolving Fund to finance adequate school plants in districts already up to or near their constitutional debt limits. The State Board of Public School Education is the governing or policy-forming body for the fund. This Board and the State Superintendent of Public Instruction both must approve any loan made from the fund. To sidestep the constitutional debt limit issue, this is actually a "lend-lease" program. A contract is drawn up between the State Board and the school district under which the Board retains title to the facilities and simply leases them to the district at a stipulated annual rental, plus interest at the rate of 2½ percent per annum. The contract may not be for more than 30 years. At the conclusion of the contract, title to the facilities is transferred to the district.

In order to qualify for a rental contract, the district: (1) must levy the 20-mill maximum tax rate for its building fund (this requires approval of the electors) and must agree to maintain this tax rate for the life of the contract, (2) must have the maximum legal bonded indebtedness (but this does not rule out joint financing by selling bonds up to the legal debt limit and contracting with the State Board for the rest), and (3) must show that a school is necessary at the proposed location and that reorganization of district boundaries is not a satisfactory alternative to construction. The contract may not exceed 20 percent of the taxable valuation of the district nor may it exceed $600,000. Moreover, contract funds may not be used to cover construction cost of auditoriums and gymnasiums, except in those cases where an entire school unit is constructed in which these types of facilities are incidental to the school plant. The county treasurer records the construction fund contract in the local government bond register just as if it were a bonded debt. (Section 15-60-03 to section 15-60-05, NDCC, as amended by S.L. 1975, chapter 178).

There have never been any serious defaults among the contracting districts. The original $5 million appropriation for the Revolving Fund has been sufficient and no supplemental appropriations have been made.

Because of recent applications for contracts from school districts in the coal-impact areas, there is now some apprehension that available construction contract funds may be inadequate for the first time in the 23-year history of the Revolving Fund.

State aid for areas impacted by coal development--It was pointed out earlier that 35 percent of the proceeds of the coal severance tax, imposed by the 1975 Legislative Assembly are credited to a special fund in the State Treasury for distribution through grants made by the Coal Impact Office to counties, cities, school districts, and other taxing districts that are affected by development of coal mines and coal-conversion plants. The program is largely experimental and will expire on June 30, 1977, unless the 1977 Legislative Assembly reenacts the severance tax and grant program with or without amendments.

The act authorizes the Coal Impact Office to develop procedures and forms to be used by local jurisdictions in applying for grants and to make recommendations to the Governor and the Legislative Assembly. The Coal Impact Office is authorized to make grants to local units up to a maximum total of $5 million. The only guideline established by the act was:

> In determining the amount of impact grants for which political subdivisions are eligible, the amount of revenue to which such political subdivision will be entitled from taxes upon the real property of coal development plants and from other tax or fund distribution formulas provided by law shall be considered.[27]

In carrying out this broad mandate, the Coal Impact Office has concentrated the grants it has made from the severance tax proceeds during FY 1975-76 in McLean, Mercer, and Oliver counties. It has helped counties primarily with funds for additional law enforcement personnel; it has helped cities to provide streets, water storage and supply facilities, waste treatment, and sewer lines and water mains in new subdivisions, and it has helped school districts with modest grants to supplement proceeds from bond issues and construction contracts with the State Construction Revolving Fund for construction and reconstruction of school facilities.

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[27] S.L. 1975, chapter 563, section 11 to 18, now coded as section 57-62-01 to section 57-62-07, NDCC.

Future Implications

Although the property tax continues to be the most important single source of revenue for local governments in North Dakota, recent state legislation has provided more funds for local governments from nonproperty tax sources. This is being done through a system of shared taxes, financial aid to all public schools, replacement of personal property tax revenues with state funds, and outright grants of money to communities affected by energy development. State government has also assumed more financial responsibility for local social services.

In total approximately one-half of North Dakota's State General Fund revenues and one-third of the highway tax revenues are given to local governments. The practice of sharing such a large part of state tax revenues with local governments has kept property taxes from increasing as fast as nonproperty taxes. The state's shared revenues have provided local governments with increased funds for maintaining services which traditionally were dependent only upon property taxes.

Continuation of the present level of sharing state revenues with local governments will depend upon the amount of state tax revenue available and the public's wishes regarding the mix of taxes for financing local government.

The authors want to caution users of the data in this report that the state and local tax structure described here is subject to change by future legislative action or electoral initiative.

LIST OF TABLES

Table No.		Page
1	TOTAL STATE AND LOCAL TAX REVENUE IN NORTH DAKOTA, BY TYPE OF TAX, 1972 AND 1976	3
2	TOTAL ASSESSED VALUATION OF TAXABLE PROPERTY IN NORTH DAKOTA, BY CLASS OF PROPERTY, 1972 TO 1976	19
3	TOTAL AMOUNTS OF GENERAL AND SPECIAL PROPERTY TAXES LEVIED IN NORTH DAKOTA, BY CLASS OF PROPERTY, 1971 TO 1975	20
4	TOTAL AMOUNTS OF GENERAL AND SPECIAL TAXES LEVIED IN NORTH DAKOTA, BY TYPE OF TAXING JURISDICTION, 1971 TO 1975	21
5	ASSESSED VALUATIONS OF AIRLINES AND AMOUNT OF PROPERTY TAXES LEVIED, 1972 TO 1976	22
6	TOTAL ASSESSED VALUATION AND AMOUNT OF PROPERTY TAXES LEVIED AGAINST CARLINE AND RAILWAY EXPRESS FIRMS, 1972 TO 1976	23
7	AMOUNT OF ESTATE TAXES ASSESSED BY NORTH DAKOTA, 1972 TO 1976	24
8	PERSONAL INCOME AND CORPORATE INCOME TAX COLLECTIONS BY STATE OF NORTH DAKOTA, 1972 TO 1976	26
9	ANNUAL REVENUE PRODUCED BY INSURANCE PREMIUM TAXES, 1972 TO 1976	30
10	PROCEEDS FROM THE MOTOR VEHICLE FUEL TAX, 1972 TO 1976	34
11	SPECIAL FUELS TAX COLLECTIONS AND DISTRIBUTION OF PROCEEDS, 1972 TO 1976	36
12	AVIATION FUELS TAX COLLECTIONS AND DISTRIBUTION OF PROCEEDS, 1972 TO 1976	38
13	ANNUAL REVENUE FROM MOTOR VEHICLE REGISTRATIONS, BY TYPE OF VEHICLE, 1972 TO 1976	40
14	EXISTING AND PROPOSED COAL-CONVERSION PLANTS IN NORTH DAKOTA, SUBJECT TO TAXES IMPOSED BY S.L. 1975, CHAPTER 562, AS OF JANUARY 1, 1976	42
15	DISTRIBUTION OF PROCEEDS FROM OIL AND GAS PRODUCTION TAX, BY FISCAL YEARS, 1972 TO 1976	46
16	HIGHWAY TAX DISTRIBUTION FUND: RECEIPTS BY SOURCE AND DISTRIBUTIONS BY TYPE OF GOVERNMENTAL AGENCY, 1972 TO 1976	50
17	STATE AID TO LOCAL GOVERNMENTS FOR HIGHWAYS, STREETS, AND ROADS, 1972 TO 1976	52
18	PER PUPIL RATES USED IN COMPUTING FOUNDATION PAYMENTS TO SCHOOL DISTRICTS, FISCAL YEARS 1974 TO 1977	56
19	CONTRIBUTIONS TO SCHOOL FOUNDATION PROGRAM FROM COUNTY EQUALIZATION FUNDS OF ALL COUNTIES AND FROM THE STATE GENERAL FUND, FISCAL YEARS 1974 TO 1977	58