

TAXATION

CHAPTER 541

SENATE BILL NO. 2448
(Senator Wogsland)
(Representatives Nicholas, Thorpe)

TAX PAYMENTS BY IMMEDIATE MEANS

AN ACT to create and enact a new subsection to section 57-01-02 of the North Dakota Century Code, relating to authorizing the tax commissioner to require payments of one hundred thousand dollars or more due on a return, report, or other document to be paid by a method in which the funds are immediately available to the state, requiring a taxpayer to provide the tax commissioner with evidence of the payment, providing for penalties and interest on late payments, authorizing the tax commissioner to adopt rules necessary for the administration of this payment method; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-01-02 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

- a. May require, consistent with the cash management policies of the office of management and budget, that any taxpayer owing one hundred thousand dollars or more in connection with any return, report, or other document to be filed with the commissioner shall pay the tax liability to the state no later than the date the payment is required by law to be made in funds which are immediately available to the state on the date of payment. Payment in immediately available funds may be made by wire transfer of funds through the federal reserve system or by any other means established by the commissioner which ensures the availability of the funds to the state on date of payment. Evidence of the payment must be furnished to the commissioner on or before the due date of the tax as established by law. Failure to timely make the payment in immediately available funds or failure to provide evidence of payment in a timely manner subjects the taxpayer to penalty and interest as provided by law for delinquent or deficient tax payments. If payment is timely made in other than immediately available funds, penalty and interest must be added to the amount of tax due from the due date of the tax payment to the date that funds from the tax payment become available to the state.
- b. May establish by rule periodic filing and payment dates that are subsequent to the dates otherwise established by law for any taxes collected by the commissioner in those instances where the commissioner deems it to be in the best interest of the state, provided that the alternative date may not be later than the last day of the month in which the tax was otherwise due.
- c. May adopt rules necessary for the administration of this subsection.

Approved April 28, 1993
Filed April 30, 1993

CHAPTER 542

SENATE BILL NO. 2288
(Senators Tomac, Thane)
(Representatives Dalrymple, Hokana, Timm)

POLLUTION ABATEMENT TAX EXEMPTION

AN ACT to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to a property tax exemption for the value of pollution abatement improvements to certain buildings or facilities; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-02-08 of the 1992 Special Supplement to the North Dakota Century Code is created and enacted as follows:

- a. A pollution abatement improvement. As used in this subsection, "pollution abatement improvement" means property, exclusive of land and improvements to the land such as ditching, surfacing, and leveling, that is:
 - (1) Part of an agricultural or industrial facility which is used for or has for its ultimate purpose, the prevention, control, monitoring, reducing, or eliminating of pollution by treating, pretreating, stabilizing, isolating, collecting, holding, controlling, measuring, or disposing of waste contaminants; or
 - (2) Part of an agricultural or industrial facility and required to comply with local, state, or federal environmental quality laws, rules, regulations, or standards.
- b. The exemption under this subsection applies only to that portion of the valuation of property attributable to the pollution abatement improvement on which construction or installation was commenced after December 31, 1992, and does not apply to the valuation of any property that is not a necessary component of the pollution abatement improvement. The governing body of the city, for property within city limits, or the governing board of the county, for property outside city limits, shall determine whether the property proposed for exemption is a pollution abatement improvement and may grant an exemption for the pollution abatement improvement based upon the requirements of this subsection.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1992.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 543

HOUSE BILL NO. 1103
(Representative Tollefson)

STATE LAND LEASE TAX EXEMPTION

AN ACT to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to a property tax exemption for certain property leased from the state for pasture or grazing purposes or upon which the state makes payments in lieu of taxes; to amend and reenact subsection 1 of section 57-02-26 and section 57-02.3-01 of the North Dakota Century Code, relating to the taxable status of, and payments in lieu of taxes on, certain property leased from the state; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-02-08 of the 1992 Special Supplement to the North Dakota Century Code is created and enacted as follows:

The leasehold interest in property owned by the state which has been leased for pasture or grazing purposes or upon which payments in lieu of property taxes are made by the state.

SECTION 2. AMENDMENT. Subsection 1 of section 57-02-26 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Property held under a lease for a term of years, or under a contract for the purchase thereof, belonging to the United States or to the state or a political subdivision thereof, except such lands as have been leased for pasture or grazing purposes or upon which the state makes payments in lieu of property taxes, or to any religious, scientific, or benevolent society or institution, whether incorporated or unincorporated, or to any railroad corporation whose property is not taxed in the same manner as other property, must be considered, for all purposes of taxation, as the property of the person so holding the same.

SECTION 3. AMENDMENT. Section 57-02.3-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-02.3-01. Definition. As used in this chapter, unless the context or subject matter otherwise clearly indicates, "property subject to valuation" means real property owned by the board of university and school lands or by the state treasurer as trustee for the state of North Dakota, title to which was obtained after January 1, 1980, by foreclosure or deed in lieu of foreclosure of a mortgage given to the Bank of North Dakota, including a mortgage assigned to the state treasurer under section 54-30-02. "Property subject to valuation" also means real property owned by the board of university and school lands or by the state treasurer as trustee for the state of North Dakota, title to which was obtained on or before January 1, 1980, and which is leased to a leaseholder who uses the property for growing hay or crops.

SECTION 4. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1992.

Approved April 9, 1993
Filed April 9, 1993

CHAPTER 544

HOUSE BILL NO. 1127
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

PERMANENT AND TOTAL DISABILITY

AN ACT to amend and reenact section 57-02-08.1 of the North Dakota Century Code, relating to the definition of a permanent and totally disabled person for property tax credit purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-02-08.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ 57-02-08.1. Property tax credits for persons sixty-five years of age or older with limited income.

1. Any person sixty-five years of age or older in the year in which the tax was levied, or any person who is permanently and totally disabled in the year in which the tax was levied, as certified by a licensed physician selected approved by the local governing body, with an income of thirteen thousand dollars or less per annum from all sources, including the income of any dependent person, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, shall receive a reduction in the assessment on the taxable valuation on the homestead as defined in section 47-18-01, except that this exemption applies to any person who otherwise qualifies under the provisions of this subsection regardless of whether the person is the head of a family. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the homestead previously occupied by the person is not rented to another person. The exemption to which any person may be entitled must be determined according to the following schedule:
 - a. If the person's income is not in excess of seven thousand dollars, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of two thousand dollars of taxable valuation.
 - b. If the person's income is in excess of seven thousand dollars and not in excess of eight thousand five hundred dollars, a reduction of eighty percent of the taxable valuation of the person's homestead up

¹ NOTE: Section 57-02-08.1 was also amended by section 1 of Senate Bill No. 2360, chapter 545.

- to a maximum reduction of one thousand six hundred dollars of taxable valuation.
- c. If the person's income is in excess of eight thousand five hundred dollars and not in excess of ten thousand dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand two hundred dollars of taxable valuation.
 - d. If the person's income is in excess of ten thousand dollars and not in excess of eleven thousand five hundred dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of eight hundred dollars of taxable valuation.
 - e. If the person's income is in excess of eleven thousand five hundred dollars and not in excess of thirteen thousand dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of four hundred dollars of taxable valuation.

In no case may a husband and wife who are living together both be entitled to the credit as provided for in this subsection upon their homestead. The provisions of this subsection may not reduce the liability of any person for special assessments levied upon any property. Any person eligible for the exemption herein provided shall sign a statement that the person is sixty-five years of age or older or is permanently and totally disabled, that the person's income, including that of any dependent, as determined in this chapter does not exceed thirteen thousand dollars per annum and that the value of the person's assets, excluding the value of the person's "homestead" as defined in section 47-18-01, does not exceed fifty thousand dollars including the value of any assets divested within the last three years. The term "dependent" includes the spouse, if any, of the person claiming the exemption. The assessor shall attach the statement to the assessment sheet and shall show the reduction on the assessment sheet. All benefits available in this section terminate at the end of the taxable year of the death of the applicant.

2. Any person sixty-five years of age or older, or any person who is permanently and totally disabled as certified by a licensed physician ~~selected~~ approved by the local governing body, with an income of thirteen thousand dollars or less per annum from all sources, including the income of any dependent person, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, but excluding any federal rent subsidy, and who rents living quarters is eligible for refund for that part of the annual rent which is deemed by this subsection to constitute the payment of property tax and which is further deemed to represent a burdensome share of his income. For the purpose of this subsection, twenty percent of the annual rent, exclusive of any federal rent subsidy and of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement, must be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds four percent of the annual income of a qualified applicant, said applicant shall receive a refund from the state general fund for that amount in

excess of four percent of the person's annual income, but the refund may not be in excess of two hundred thirty dollars. If the calculation for the refund is less than five dollars, a minimum of five dollars must be sent to the qualifying applicant. In no case may a husband and wife who are living together both be entitled to the refund as provided for in this subsection. Each application for refund under this subsection must be made to the tax commissioner before the first day of June of each year by the person claiming the refund, but the tax commissioner may grant an extension of time to file an application for good cause. The tax commissioner shall certify to the state treasurer the amount of the refund due, if any, and the state treasurer shall issue the refund from the state general fund to the applicant. In no case may this subsection apply to rents or fees paid by a person for any living quarters, including a nursing home licensed pursuant to section 23-16-01, if that living quarter has been declared exempt from property taxation and is not making a payment in lieu of property taxes.

3. All forms necessary to effectuate this section must be prescribed and designed by the tax commissioner who shall annually distribute an adequate supply of them to each county director of tax equalization. The county directors of tax equalization shall make these forms available upon request.
4. In determining a person's income for eligibility under this section, the amount of medical expenses actually incurred by that person or any dependent person and not compensated for by insurance or otherwise must be deducted. For purposes of this section, the term "medical expenses" has the same meaning as it has for state income tax purposes.
5. No person whose homestead as defined in section 47-18-01 is a farm structure exempt from taxation under subsection 15 of section 57-02-08 may receive any property tax credit under this section.
6. For the purposes of this section, "permanently and totally disabled" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months.

Approved March 22, 1993
Filed March 23, 1993

CHAPTER 545

SENATE BILL NO. 2360
(Senators Holmberg, Kelly, Maxson, Robinson)
(Representatives C. Carlson, Kroeber)

AGED AND DISABLED PROPERTY TAX CREDITS

AN ACT to amend and reenact section 57-02-08.1 of the North Dakota Century Code, relating to property tax credits for persons with limited income who are sixty-five years of age or over or permanently and totally disabled; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-02-08.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ **57-02-08.1. Property tax credits for persons sixty-five years of age or older with limited income.**

1. Any person sixty-five years of age or older in the year in which the tax was levied, or any person who is permanently and totally disabled in the year in which the tax was levied, as certified by a physician selected by the local governing body, with an income of thirteen thousand five hundred dollars or less per annum from all sources, including the income of any dependent person, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, shall receive a reduction in the assessment on the taxable valuation on the homestead as defined in section 47-18-01, except that this exemption applies to any person who otherwise qualifies under the provisions of this subsection regardless of whether the person is the head of a family. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the homestead previously occupied by the person is not rented to another person. The exemption to which any person may be entitled must be determined according to the following schedule:
 - a. If the person's income is not in excess of seven thousand five hundred dollars, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of two thousand dollars of taxable valuation.
 - b. If the person's income is in excess of seven thousand five hundred dollars and not in excess of ~~eight~~ nine thousand ~~five hundred~~ dollars, a reduction of eighty percent of the taxable valuation of the

¹ NOTE: Section 57-02-08.1 was also amended by section 1 of House Bill No. 1127, chapter 544.

person's homestead up to a maximum reduction of one thousand six hundred dollars of taxable valuation.

- c. If the person's income is in excess of ~~eight~~ nine thousand ~~five hundred~~ dollars and not in excess of ten thousand five hundred dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand two hundred dollars of taxable valuation.
- d. If the person's income is in excess of ten thousand five hundred dollars and not in excess of ~~eleven~~ twelve thousand ~~five hundred~~ dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of eight hundred dollars of taxable valuation.
- e. If the person's income is in excess of ~~eleven~~ twelve thousand ~~five hundred~~ dollars and not in excess of thirteen thousand five hundred dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of four hundred dollars of taxable valuation.

In no case may a husband and wife who are living together both be entitled to the credit as provided for in this subsection upon their homestead. The provisions of this subsection may not reduce the liability of any person for special assessments levied upon any property. Any person eligible for the exemption herein provided shall sign a statement that the person is sixty-five years of age or older or is permanently and totally disabled, that the person's income, including that of any dependent, as determined in this chapter does not exceed thirteen thousand five hundred dollars per annum and that the value of the person's assets, excluding the value of the person's "homestead" as defined in section 47-18-01, does not exceed fifty thousand dollars including the value of any assets divested within the last three years. The term "dependent" includes the spouse, if any, of the person claiming the exemption. The assessor shall attach the statement to the assessment sheet and shall show the reduction on the assessment sheet. All benefits available in this section terminate at the end of the taxable year of the death of the applicant.

2. Any person sixty-five years of age or older, or any person who is permanently and totally disabled as certified by a physician selected by the local governing body, with an income of thirteen thousand five hundred dollars or less per annum from all sources, including the income of any dependent person, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, but excluding any federal rent subsidy, and who rents living quarters is eligible for refund for that part of the annual rent which is deemed by this subsection to constitute the payment of property tax and which is further deemed to represent a burdensome share of ~~his~~ the person's income. For the purpose of this subsection, twenty percent of the annual rent, exclusive of any federal rent subsidy and of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement, must be considered as payment made for property tax. When any part of the twenty

percent of the annual rent exceeds four percent of the annual income of a qualified applicant, said applicant shall receive a refund from the state general fund for that amount in excess of four percent of the person's annual income, but the refund may not be in excess of two hundred ~~thirty~~ forty dollars. If the calculation for the refund is less than five dollars, a minimum of five dollars must be sent to the qualifying applicant. In no case may a husband and wife who are living together both be entitled to the refund as provided for in this subsection. Each application for refund under this subsection must be made to the tax commissioner before the first day of June of each year by the person claiming the refund, but the tax commissioner may grant an extension of time to file an application for good cause. The tax commissioner shall certify to the state treasurer the amount of the refund due, if any, and the state treasurer shall issue the refund from the state general fund to the applicant. In no case may this subsection apply to rents or fees paid by a person for any living quarters, including a nursing home licensed pursuant to section 23-16-01, if that living quarter has been declared exempt from property taxation and is not making a payment in lieu of property taxes.

3. All forms necessary to effectuate this section must be prescribed and designed by the tax commissioner who shall annually distribute an adequate supply of them to each county director of tax equalization. The county directors of tax equalization shall make these forms available upon request.
4. In determining a person's income for eligibility under this section, the amount of medical expenses actually incurred by that person or any dependent person and not compensated for by insurance or otherwise must be deducted. For purposes of this section, the term "medical expenses" has the same meaning as it has for state income tax purposes.
5. No person whose homestead as defined in section 47-18-01 is a farm structure exempt from taxation under subsection 15 of section 57-02-08 may receive any property tax credit under this section.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1994.

Approved April 12, 1993
Filed April 12, 1993

CHAPTER 546

SENATE BILL NO. 2261
(Senators Lindgren, Dotzenrod)
(Representatives Kretschmar, Brodshaug)

SPECIAL ASSESSMENT HOMESTEAD CREDIT

AN ACT to amend and reenact subsection 1 of section 57-02-08.3 of the North Dakota Century Code, relating to the homestead credit for special assessments; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 57-02-08.3 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Any person who has qualified for the property tax credit provided for in section 57-02-08.1 may elect to also qualify for an additional homestead credit against that person's homestead for the portion of any special assessment levied by a ~~city under title 40 that~~ taxing district which becomes due for the same year. The total amount of credits allowed for any one property must not exceed six thousand dollars excluding any interest charged by the body levying the special assessment. This credit shall be granted only at the election of the qualifying person. The person making the election shall do so by filing with the county auditor a claim for the special assessment credit on a form prescribed by the tax commissioner. The claim shall be filed with the county auditor on or before February first of the year in which the special assessment installment thereof becomes payable.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1992.

Approved March 10, 1993
Filed March 11, 1993

CHAPTER 547

SENATE BILL NO. 2482
(Senators Grindberg, Lindgren, Nalewaja, Redlin)
(Representatives Austin, Carlisle)

COUNTY BOARD OF EQUALIZATION MEETINGS

AN ACT to amend and reenact section 57-12-01 of the North Dakota Century Code, relating to the time of meetings of the county board of equalization.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-12-01 of the North Dakota Century Code is amended and reenacted as follows:

57-12-01. Membership of board - Meeting - Required attendance of certain officials. The board of county commissioners shall meet ~~on~~ within the first ~~Tuesday in~~ ten days of June of each year and shall constitute a board of equalization of the assessments made within the county. The chairman of the board shall preside. The county board of equalization shall conduct a continuous day-to-day meeting, not to include Saturdays, Sundays, or legal holidays, until it has completed all duties prescribed by this chapter. The first order of business shall be the equalization of assessments of property assessed by city boards of equalization. The second order of business shall be the equalization of assessments of property assessed by township boards of equalization. The chairman of each city board of equalization, or his appointed representative, and each city assessor shall be present at such meeting during the first order of business. The chairman of each township board of equalization, or his appointed representative, and each township assessor shall be present at such meeting during the second order of business. Each person required by this section to attend the meeting of the county board of equalization shall be compensated at a rate not to exceed ten dollars per day for each day actually and necessarily spent in attendance at such meeting plus the same mileage and expenses as are authorized for subdivision employees and officials. Such per diem and expenses shall be paid by the city or township in the same manner as other city or township expenses are paid.

Approved March 30, 1993
Filed April 1, 1993

CHAPTER 548

SENATE BILL NO. 2024
(Legislative Council)
(Advisory Commission on Intergovernmental Relations)

POLITICAL SUBDIVISION OPTIONAL LEVIES

AN ACT providing optional property tax levy increase authority for political subdivisions and providing limitations on that authority; and to provide an effective date and an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Protection of taxpayers and taxing districts. Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section, "base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year and "budget year" means the taxing district's year for which the levy is being determined under this section.
3. For taxable year 1993, a taxing district may elect to levy at most three percent more than the amount levied in dollars in the base year. For taxable year 1994, a taxing district may elect to levy at most two percent more than the amount levied in dollars in the base year. Any levy of a percentage increase under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before adding the increase, the dollar amount levied in the base year must be:
 - a. Reduced by an amount equal to the sum determined by the application of the base year's mill rate for that taxing district to the final base year taxable valuation of any property that is not included in the assessment for the budget year but was included in the assessment for the base year.
 - b. Increased by an amount equal to the sum determined by the application of the base year's mill rate for that taxing district to the final budget year taxable valuation of any property that was not included in the assessment for the base year but which is included in the assessment for the budget year.
 - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district.

4. A taxing district may levy an amount in dollars equal to the amount levied in any of the previous three years reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district and increased by an amount equal to the sum determined by the application of any unused mill levy authority from that year, which was authorized by law or by the electors of that taxing district but not levied for that year, to the budget year taxable valuation of the taxable property in that taxing district. A taxing district electing to increase its levy under this subsection may not add the percentage increase permitted by subsection 3 to the amount levied under this subsection.
5. In addition to any other increase under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
6. Under the provisions of this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
 - a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
 - b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
7. A school district choosing to increase its levy authority under this section may apply the allowable percentage increase only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply the allowable percentage increase to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to the allowable percentage increase under this section.
8. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

SECTION 2. EFFECTIVE DATE - EXPIRATION DATE. This Act is effective for the first two taxable years beginning after December 31, 1992, and is thereafter ineffective.

Approved April 29, 1993
Filed April 30, 1993

CHAPTER 549

HOUSE BILL NO. 1424
(Representatives Kroeber, Wardner)
(Senators Heinrich, Holmberg)

SCHOOL FUND TRANSFERS

AN ACT to amend and reenact subsection 3 of section 57-15-14.2 of the North Dakota Century Code, relating to the transfer of school district general funds and state school aid funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 57-15-14.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. All proceeds of any levy established pursuant to this section shall be placed in the school district's general fund account and may be expended to achieve the purposes for which the taxes authorized by this section are levied. Proceeds from levies established pursuant to this section and funds provided to school districts pursuant to chapter 15-40.1 may not be transferred to the building fund within the school district.

Approved April 2, 1993
Filed April 2, 1993

CHAPTER 550

HOUSE BILL NO. 1034
(Legislative Council)
(Interim Education Committee)

SCHOOL BUILDING FUNDS FOR INSURANCE

AN ACT to amend and reenact subsection 1 of section 57-15-17 of the North Dakota Century Code, relating to the use of school building funds for certain insurance premiums.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹ SECTION 1. AMENDMENT. Subsection 1 of section 57-15-17 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. a. All revenue accruing from appropriations or tax levies for a school building fund together with such amounts as may be realized for building purposes from all other sources, ~~shall~~ must be placed in a separate fund known as a school building fund, and ~~shall~~ must be deposited, held, or invested in the same manner as the sinking funds of such school district or in the purchase of shares or securities of federal or state-chartered savings and loan associations within the limits of federal insurance.
- b. The funds ~~shall~~ may only be used ~~solely and exclusively~~ for any of the following purposes:
 - (1) The erection of new school buildings, or additions to old school buildings, or the making of major repairs to existing buildings.
 - (2) The payment of rentals upon contracts with the state board of public school education.
 - (3) The payment of rentals upon contracts with municipalities for vocational education facilities financed pursuant to chapter 40-57.
 - (4) Within the limitations of school plans as provided in subsection 2 of section 57-15-16.
 - (5) The payment of principal, premium, if any, and interest on bonds issued pursuant to subsection 7 of section 21-03-07.
 - (6) The payment of premiums for fire and allied lines, liability, and multiple peril insurance on any building and its use, occupancy, fixtures, and contents.

¹ NOTE: Subsection 1 of section 57-15-17 was also amended by section 1 of Senate Bill No. 2176, chapter 551.

- c. ~~The custodian of the funds shall be paid~~ may pay out by the custodian ~~thereof the funds~~ only upon order of the school board, signed by the president and the business manager of the school district, ~~and the~~. The order must recite upon its face the purpose for which payment is made.

Approved March 15, 1993
Filed March 16, 1993

CHAPTER 551

SENATE BILL NO. 2176
(Education Committee)

(At the request of the Superintendent of Public Instruction)

SCHOOL BUILDING FUND USE FOR INSURANCE

AN ACT to amend and reenact subsection 1 of section 57-15-17 of the North Dakota Century Code, relating to school district use of building funds for certain insurance premiums.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹ SECTION 1. AMENDMENT. Subsection 1 of section 57-15-17 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. a. All revenue accruing from appropriations or tax levies for a school building fund together with such amounts as may be realized for building purposes from all other sources, ~~shall~~ must be placed in a separate fund known as a school building fund, and ~~shall~~ must be deposited, held, or invested in the same manner as the sinking funds of such school district or in the purchase of shares or securities of federal or state-chartered savings and loan associations within the limits of federal insurance.
- b. The funds ~~shall~~ may only be used ~~solely and exclusively for any of~~ the following purposes:
 - (1) The erection of new school buildings or facilities, or additions to old school buildings or facilities, or the making of major repairs to existing buildings or facilities, or improvements to school land and site. For purposes of this paragraph, facilities may include parking lots, athletic complexes, or any other real property owned by the school district.
 - (2) The payment of rentals upon contracts with the state board of public school education.
 - (3) The payment of rentals upon contracts with municipalities for vocational education facilities financed pursuant to chapter 40-57.
 - (4) Within the limitations of school plans as provided in subsection 2 of section 57-15-16.

¹ NOTE: Subsection 1 of section 57-15-17 was also amended by section 1 of House Bill No. 1034, chapter 550.

- (5) The payment of principal, premium, if any, and interest on bonds issued pursuant to subsection 7 of section 21-03-07.
- (6) The payment of premiums for fire and allied lines, liability, and multiple peril insurance on any building and its use, occupancy, fixtures, and contents.
- c. ~~The custodian of the funds shall be paid~~ may pay out by the custodian ~~thereof the funds~~ only upon order of the school board, signed by the president and the business manager of the school district, ~~and the~~. The order must recite upon its face the purpose for which payment is made.

Approved April 7, 1993

Filed April 8, 1993

CHAPTER 552

SENATE BILL NO. 2060
(Senators Yockim, Goetz)
(Representatives Mahoney, Torgerson)

REDEMPTION NOTICE FOR SEVERED MINERALS

AN ACT to amend and reenact subsections 3 and 5 of section 57-27-02 of the North Dakota Century Code, relating to an exception to the notice of redemption provisions for owners of certain severed mineral interests; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 3 and 5 of section 57-27-02 of the 1991 Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. Within ten days after a request by the county auditor, the register of deeds and the clerk of the district court shall furnish the county auditor with a certified list giving the names and addresses of all persons who appear to be interested as owners, mortgagees, lienholders, or otherwise in the property except a person whose only interest is in a mineral interest that was severed from the surface estate before the filing of any unsatisfied lien or mortgage or before January first of the year following the year for which the taxes were levied and to which the tax sale certificate issued or deemed to have been issued relates, upon whom the notice of the expiration of the period of redemption must be served.
5. The county auditor shall serve the notice of the expiration of the period of redemption upon each mortgagee, lienholder, and other person with an interest in the property except a person whose only interest is in a mineral interest that was severed from the surface estate before the filing of any unsatisfied lien or mortgage or before January first of the year following the year for which the taxes were levied and to which the tax sale certificate issued or deemed to have been issued relates, and upon whom personal service is not required by this section, as shown by the records of the register of deeds or the clerk of the district court of the county. The notice must be served by registered mail.

SECTION 2. EFFECTIVE DATE. This Act is effective for any notice of expiration of the period of redemption served after June 30, 1993.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 553

SENATE BILL NO. 2189
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

TAX LIABILITY AND LIENS

AN ACT to create and enact two new sections to chapter 57-36, two new sections to chapter 57-43.1, and two new sections to chapter 57-43.2 of the North Dakota Century Code, relating to corporate officer liability and tax liens.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-36 of the North Dakota Century Code is created and enacted as follows:

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

SECTION 2. A new section to chapter 57-36 of the North Dakota Century Code is created and enacted as follows:

Lien of tax - Collection - Action authorized.

1. When a taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the tax, the amount, including any interest, penalty, or addition to the tax, together with the costs that may accrue in addition to the tax, is a lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to the taxpayer, and in the case of property in which a deceased taxpayer held an interest as joint tenant or otherwise with right of survivorship at the time of death, the lien continues as a lien against the property in the hands of the survivors to the extent of the deceased taxpayer's interest therein, which interest is determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein.
2. The lien attaches at the time the tax becomes due and payable and continues until the liability for the amount is satisfied. For the purposes of this section the words "due" and "due and payable" mean the first instant at which the tax becomes due.
3. To preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the commissioner shall file a notice of the

lien with the register of deeds of the county in which the property is located.

4. The register of deeds of each county shall prepare and keep in the register of deed's office a book known as "index of tax liens", so ruled as to show in appropriate columns all of the following data, under the names of taxpayers, arranged alphabetically:
 - a. The name of the taxpayer.
 - b. The name "state of North Dakota" as claimant.
 - c. The time notice of lien was received.
 - d. The date of notice.
 - e. The amount of lien when due.
 - f. The date of satisfaction.

The register of deeds shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall index the notice in the index book and the lien is effective from the time of indexing.

5. The commissioner is exempt from the payment of the filing fees as otherwise provided by law for the filing of a lien or the satisfaction of a lien.
6. Upon payment of a tax as to which the commissioner has filed notice with the register of deeds, the commissioner shall file with the register of deeds a satisfaction of tax and the register of deeds shall enter the satisfaction on the notice on file and indicate the fact on the index.
7. Upon the request of the commissioner, the attorney general shall bring an action at law or in equity, as the facts may justify, without bond to enforce payment of any taxes and any penalties, or to foreclose the lien in the manner provided for mortgages on real or personal property, and in the action the attorney general shall have the assistance of the state's attorney of the county in which the action is pending.
8. The foregoing remedies of the state are cumulative and no action taken by the commissioner or attorney general may be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law.

SECTION 3. A new section to chapter 57-43.1 of the North Dakota Century Code is created and enacted as follows:

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

SECTION 4. A new section to chapter 57-43.1 of the North Dakota Century Code is created and enacted as follows:

Lien of tax - Collection - Action authorized.

1. When a taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the tax, the amount, including any interest, penalty, or addition to the tax, together with the costs that may accrue in addition to the tax, is a lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to the taxpayer, and in the case of property in which a deceased taxpayer held an interest as joint tenant or otherwise with right of survivorship at the time of death, the lien continues as a lien against the property in the hands of the survivors to the extent of the deceased taxpayer's interest therein, which interest is determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein.
2. The lien attaches at the time the tax becomes due and payable and continues until the liability for the amount is satisfied. For the purposes of this section, the words "due" and "due and payable" mean the first instant at which the tax becomes due.
3. To preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the commissioner shall file a notice of the lien with the register of deeds of the county in which the property is located.
4. The register of deeds of each county shall prepare and keep in the register of deed's office a book known as "index of tax liens", so ruled as to show in appropriate columns all of the following data, under the names of taxpayers, arranged alphabetically:
 - a. The name of the taxpayer.
 - b. The name "state of North Dakota" as claimant.
 - c. The time notice of lien was received.
 - d. The date of notice.
 - e. The amount of lien when due.
 - f. The date of satisfaction.

The register of deeds shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall index the notice in the index book and the lien is effective from the time of indexing.

5. The commissioner is exempt from the payment of the filing fees as otherwise provided by law for the filing of a lien or the satisfaction of a lien.
6. Upon payment of a tax as to which the commissioner has filed notice with the register of deeds, the commissioner shall file with the register of

deeds a satisfaction of tax and the register of deeds shall enter the satisfaction on the notice on file and indicate the fact on the index.

7. Upon the request of the commissioner, the attorney general shall bring an action at law or in equity, as the facts may justify, without bond to enforce payment of any taxes and any penalties, or to foreclose the lien in the manner provided for mortgages on real or personal property, and in the action the attorney general shall have the assistance of the state's attorney of the county in which the action is pending.
8. The foregoing remedies of the state are cumulative and no action taken by the commissioner or attorney general may be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law.

SECTION 5. A new section to chapter 57-43.2 of the North Dakota Century Code is created and enacted as follows:

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

SECTION 6. A new section to chapter 57-43.2 of the North Dakota Century Code is created and enacted as follows:

Lien of tax - Collection - Action authorized.

1. When a taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the tax, the amount, including any interest, penalty, or addition to the tax, together with the costs that may accrue in addition to the tax, is a lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to the taxpayer, and in the case of property in which a deceased taxpayer held an interest as joint tenant or otherwise with right of survivorship at the time of death, the lien continues as a lien against the property in the hands of the survivors to the extent of the deceased taxpayer's interest therein, which interest is determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein.
2. The lien attaches at the time the tax becomes due and payable and continues until the liability for the amount is satisfied. For the purposes of this section, the words "due" and "due and payable" mean the first instant at which the tax becomes due.
3. To preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the commissioner shall file a notice of the lien with the register of deeds of the county in which the property is located.

4. The register of deeds of each county shall prepare and keep in the register of deed's office a book known as "index of tax liens", so ruled as to show in appropriate columns all of the following data, under the names of taxpayers, arranged alphabetically:
 - a. The name of the taxpayer.
 - b. The name "state of North Dakota" as claimant.
 - c. The time notice of lien was received.
 - d. The date of notice.
 - e. The amount of lien when due.
 - f. The date of satisfaction.

The register of deeds shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall index the notice in the index book and the lien is effective from the time of indexing.

5. The commissioner is exempt from the payment of the filing fees as otherwise provided by law for the filing of a lien or the satisfaction of a lien.
6. Upon payment of a tax as to which the commissioner has filed notice with the register of deeds, the commissioner shall file with the register of deeds a satisfaction of tax and the register of deeds shall enter the satisfaction on the notice on file and indicate the fact on the index.
7. Upon the request of the commissioner, the attorney general shall bring an action at law or in equity, as the facts may justify, without bond to enforce payment of any taxes and any penalties, or to foreclose the lien in the manner provided for mortgages on real or personal property, and in the action the attorney general shall have the assistance of the state's attorney of the county in which the action is pending.
8. The foregoing remedies of the state are cumulative and no action taken by the commissioner or attorney general may be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law.

Approved April 7, 1993

Filed April 8, 1993

CHAPTER 554

SENATE BILL NO. 2075
(Finance and Taxation Committee)
(At the request of the State Treasurer)

ESTATE TAX SMALL DISTRIBUTIONS

AN ACT to amend and reenact subsection 2 of section 57-37.1-08 of the North Dakota Century Code, relating to distribution of estate taxes; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 57-37.1-08 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Following the end of each calendar quarterly period, the state treasurer shall pay over to the county treasurer of the appropriate county, for its general fund, the amount of tax collected on the transfer of the property in that county. If any part of the decedent's property at the time of decedent's death had a legal situs within the limits of a city, the share of tax based on such property must be divided by the state treasurer between the city and the county in proportion to their respective mill levies, except school levies, for the calendar year preceding the year of death. If any part of decedent's property had a legal situs outside the limits of a city, the share of tax based on said property must go entirely to the county. If the tax determined to be due pursuant to this chapter is in an amount which is one hundred dollars or less, no further apportionment pursuant to this section may be made and the entire amount due must be distributed to a county or counties in which the legal situs of the property is located for their general fund. ~~Any distributive share in an amount less than ten dollars, and which has been calculated by the state treasurer pursuant to the provisions of this section, must be paid to the state general fund and may not be distributed as otherwise provided for in this section.~~

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved February 16, 1993
Filed February 16, 1993

CHAPTER 555

HOUSE BILL NO. 1429
(Representatives Timm, Belter, Hokana)
(Senators Nelson, Kelsh)

ALTERNATIVE FUEL CONVERSION CREDIT

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to an income tax credit for equipment to convert motor vehicles to alternative fuel; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Income tax credit for alternative fuel motor vehicle conversion equipment.

1. Any taxpayer filing a North Dakota income tax return on which tax liability is determined under section 57-38-29 or 57-38-30 may claim a credit for the taxable year as provided in this section for the cost of equipment used to convert a North Dakota licensed motor vehicle to operate on alternative fuel.
2. The credit for the cost of equipment used to convert a motor vehicle to operate on alternative fuel is as follows:
 - a. For a motor vehicle with a gross vehicle weight of ten thousand pounds [4535.92 kilograms] or less, ten percent of the cost up to a maximum credit per vehicle of two hundred dollars; and
 - b. For a motor vehicle with a gross vehicle weight of more than ten thousand pounds [4535.92 kilograms], ten percent of the cost up to a maximum credit per vehicle of five hundred dollars.
3. For purposes of this section:
 - a. "Alternative fuel" means natural gas, compressed natural gas, liquefied petroleum gas, liquefied natural gas, hydrogen, electricity, and any other fuel if at least eighty-five percent of the fuel is methanol, ethanol, any other alcohol, ether, or any combination thereof.
 - b. "Equipment used to convert a motor vehicle to operate on alternative fuel" means any equipment that modifies a motor vehicle so that the vehicle may be propelled by alternative fuel. The original use of the equipment must commence with the taxpayer and must satisfy any applicable federal or state environmental standards.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1992.

SECTION 3. EXPIRATION DATE. This Act is effective through December 31, 1997, and after that date is ineffective.

Approved April 9, 1993
Filed April 9, 1993

CHAPTER 556

SENATE BILL NO. 2311
(Senators Nalewaja, Tennefos, Grindberg)
(Representatives Gulleson, Kerzman, Ness)

LONG-TERM CARE INSURANCE CREDIT

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to an income tax credit for premiums paid for long-term care insurance; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Credit for premiums for long-term care insurance coverage. A credit against an individual's tax liability under this chapter is hereby provided to each taxpayer in the amount of twenty-five percent of any premiums paid by the taxpayer for long-term care insurance coverage for the taxpayer or the taxpayer's spouse, parent, or stepparent. The credit for each policy purchased under this chapter may not exceed one hundred dollars in any taxable year.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1992.

Approved March 10, 1993
Filed March 11, 1993

CHAPTER 557

HOUSE BILL NO. 1061
(Representative Svedjan)

INCOME TAX CREDIT FOR OTHER STATES' TAXES

AN ACT to amend and reenact subsection 1 of section 57-38-40 of the North Dakota Century Code, relating to an extension of the time for claiming a credit or refund of income taxes paid to another state; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 57-38-40 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided in this section, a person may file a claim for credit or refund of an overpayment of any tax imposed by this chapter within three years after the due date of the return or within three years after the return was filed, whichever period expires last.

a. As to any corporation or other person whose principal place for managing or directing a business is outside North Dakota, if the period for assessment remains open under subsection 2 of section 57-38-38, the period of time for filing of a claim for credit or refund will remain open for the same period prescribed in subsection 2 of section 57-38-38.

b. An individual who filed a return of income as a resident of this state and is assessed tax by another state or territory of the United States or the District of Columbia on that income after the time for filing a claim has expired under this section is entitled to a credit or refund for the amount of tax paid to the other jurisdiction, not including penalty or interest, as provided under subsection 2 or 6 of section 57-38-04 or subsection 7 of section 57-38-30.3, notwithstanding the time limitations of this section. The claim for the credit or refund under this subdivision must be submitted to the commissioner within one year from the date the taxes were paid to the other jurisdiction. The taxpayer must submit sufficient proof to show entitlement to a credit or refund under this subdivision.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1992.

Approved April 1, 1993
Filed April 2, 1993

CHAPTER 558

HOUSE BILL NO. 1126
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

INCOME TAX NONFILER PENALTIES

AN ACT to create and enact a new subdivision to subsection 2 of section 57-38-45 and a new subsection to section 57-38-45 of the North Dakota Century Code, relating to penalties for delinquent income withholding tax returns and payments and imposition of a penalty on corporations for failing to file income tax returns; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 2 of section 57-38-45 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

An employer, required to file returns under subsection 1 of section 57-38-60, with four to eight delinquent original tax returns or payments is subject to a penalty of ten percent of the tax due or twenty-five dollars, whichever is greater. An employer with nine or more delinquent original returns or payments is subject to a penalty of fifteen percent of the tax due or one hundred dollars, whichever is greater.

SECTION 2. A new subsection to section 57-38-45 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

If any corporation fails to file an income tax return as required by section 57-38-32 on the date prescribed in section 57-38-34, and after thirty days' notice to file is given by the tax commissioner, the tax commissioner may assess a penalty of up to five hundred dollars for each failure to file.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1992.

Approved April 19, 1993
Filed April 20, 1993

CHAPTER 559

SENATE BILL NO. 2280
(Senator Tennesos)
(Representative Dorso)

INCOME TAX REFUND SETOFF PRIORITY

AN ACT to create and enact a new subsection to section 57-38.3-04 of the North Dakota Century Code, relating to priority of income tax refund setoff; and to amend and reenact subsection 1 of section 57-38.3-02 of the North Dakota Century Code, relating to the definition of claimant agency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 57-38.3-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. "Claimant agency" means ~~the child support unit of~~ the department of human services.

SECTION 2. A new subsection to section 57-38.3-04 of the North Dakota Century Code is created and enacted as follows:

A claim made by any child support unit of the department of human services has priority in setting off any refund. Other claims rank by date of certification under section 57-38.3-05 in the office of the commissioner with the claim earlier certified having priority.

Approved March 10, 1993
Filed March 11, 1993

CHAPTER 560

SENATE BILL NO. 2052
(Senator Traynor)

SEED CAPITAL INVESTMENT CREDIT

AN ACT to create and enact chapter 57-38.5 of the North Dakota Century Code, relating to a seed capital investment income tax credit; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 57-38.5 of the North Dakota Century Code is created and enacted as follows:

57-38.5-01. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Director" means the director of the department of economic development and finance.
2. "New wealth" means revenues to a North Dakota business which are generated by sales of products or services to customers outside of the state. "New wealth" also includes revenues to a qualified business the customers of which previously were unable to acquire, or had limited availability of, the product or service from a North Dakota provider.
3. "Primary sector business" means a qualified business that through the employment of knowledge or labor adds value to a product, process, or service and which results in the creation of new wealth.
4. "Qualified business" means a primary sector business that:
 - a. Is incorporated in North Dakota as a for-profit corporation or is a partnership, limited partnership, or joint venture;
 - b. Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state;
 - c. Has North Dakota residents as a majority of its employees;
 - d. Has its principal office in this state and has the majority of its business activity performed in this state, except sales activity;
 - e. Has a majority of its ownership interests owned by one or more individuals for whom operation of the business is their full-time professional activity;
 - f. Had gross sales receipts of less than two million dollars in its most recently ended taxable year.
5. "Taxpayer" means an individual, estate, or trust.

57-38.5-02. Certification - Investment reporting by qualified businesses. The director shall certify whether a business that has requested to become a qualified business meets the requirements of subsection 4 of section 57-38.5-01. The director shall establish the necessary forms and procedures for certifying qualified businesses.

57-38.5-03. Seed capital investment tax credit. If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability under section 57-38-29. The amount of the credit to which a taxpayer is entitled is thirty percent of the amount invested by the taxpayer in qualified businesses during the taxable year, subject to the following:

1. The aggregate annual investment for which a taxpayer may obtain a tax credit under this section is not less than five thousand dollars and not more than fifty thousand dollars. This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.
2. In any taxable year, a taxpayer may claim no more than fifty percent of the credit under this section which is attributable to investments in a single taxable year. The amount of the credit allowed under this section for any taxable year may not exceed fifty percent of the taxpayer's tax liability as otherwise determined under this chapter.
3. Any amount of credit under this section not allowed because of the limitations in this section may be carried forward for up to fifteen taxable years after the taxable year in which the investment was made.
4. A partnership that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section and the amount of the credit allowed with respect to a partnership's investment in a qualified business must be determined at the partnership level. The amount of the total credit determined at the partnership level must be allowed to the partners, limited to individuals, estates, and trusts, in proportion to their respective interests in the partnership.
5. The investment must be at risk in the business. An investment for which a credit is received under this section must remain in the business for at least three years.
6. Tax credits for investments in one qualified business may not exceed the least of the following amounts:
 - a. Thirty percent of the total amount of investments in the qualified business during the taxable year.
 - b. Gross receipts from out-of-state sales of the business during the taxable year.
 - c. Two hundred fifty thousand dollars.
7. The entire amount of an investment for which a credit is claimed under this section must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business.

8. A taxpayer who owns a controlling interest in the qualified business or whose full-time professional activity is the operation of the business is not entitled to a credit under this section. A member of the immediate family of a taxpayer disqualified by this subsection is not entitled to the credit under this section. For purposes of this subsection, "immediate family" means the taxpayer's spouse, parent, sibling, or child or the spouse of any such person.
9. The tax commissioner may disallow any credit otherwise allowed under this section if any representation by a business in the application for certification as a qualified business proves to be false or if the taxpayer or qualified business fails to satisfy any conditions under this section or any conditions consistent with this section otherwise determined by the tax commissioner. The amount of any credit disallowed by the tax commissioner that reduced the taxpayer's income tax liability for any or all applicable tax years, plus penalty and interest as provided under section 57-38-45, must be paid by the taxpayer.

57-38.5-04. Taxable year for seed capital investment tax credit. The tax credit under section 57-38.5-03 must be credited against the taxpayer's income tax liability for the taxable year in which full consideration for the investment in the qualified business was received by the qualified business.

57-38.5-05. Seed capital investment tax credit limits. The aggregate amount of seed capital investment tax credit allowed for investments under this chapter in any taxable year is two hundred fifty thousand dollars. If investments in qualified businesses reported to the commissioner under section 57-38.5-07 exceed the limits on tax credits for investments imposed by this section, the credit must be allowed to taxpayers in the chronological order of their investments in qualified businesses as determined from the forms filed under section 57-38.5-07.

57-38.5-06. Seed capital investment tax credit - Procedure - Rules. To receive the tax credit provided by section 57-38.5-03, a taxpayer must claim the credit on the taxpayer's annual state income tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the qualified business as to the taxpayer's investment in the qualified business under section 57-38.5-07.

57-38.5-07. Investment reporting forms. Within thirty days after the date on which an investment in a qualified business is purchased, the qualified business shall file with the tax commissioner and the director and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the qualified business the following:

1. The name, address, and social security number of the taxpayer who made the investment.
2. The dollar amount paid for the investment by the taxpayer.
3. The date on which full consideration was received by the qualified business for the investment.

57-38.5-08. Rules and administration. The tax commissioner is charged with administration of this chapter as it relates to an income tax credit and has the same powers as provided under section 57-38-56 for purposes of this chapter. The

director is charged with administration of this chapter as it relates to certification of qualified businesses and the director may adopt rules for that purpose.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1992.

Approved March 25, 1993
Filed March 26, 1993

CHAPTER 561

HOUSE BILL NO. 1214
(Finance and Taxation Committee)
(At the request of the Office of Management and Budget)

HIGHWAY CONTRACT TAXES

AN ACT to create and enact a new chapter to title 57 of the North Dakota Century Code, relating to taxation of department of transportation highway contracts; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 57 of the North Dakota Century Code is created and enacted as follows:

Tax levied. There is hereby levied, in addition to all other taxes imposed by law, and must be paid and collected, as herein provided, a privilege or license tax against the contractor on account of the business activities engaged in and in the amount to be determined by the application of rates against gross receipts, as follows: upon every contractor an amount equal to five percent of the gross receipts derived from performance of highway contracts.

Definitions. As used in this chapter:

1. "Contractor" includes every person, firm, or corporation and its assigns entering into any highway contract.
2. "Gross receipts" includes only those amounts derived and received by the contractor from the performance of contracts, including any additional amounts paid to the contractor for cost adjustments to a highway contract which may include fuels, materials, or labor.
3. "Highway contract" means a contract with the department of transportation for the stockpiling of materials or the construction, reconstruction, maintenance, or repair of a highway on the state system which is funded wholly or in part from the state highway fund and does not include any funding, immediate or subsequent, from any political subdivision of this state.

Proceeds. The proceeds of the taxes levied by this chapter must be paid by the contractor to the tax commissioner within thirty days of receipt of the proceeds for performance of a highway contract, and must be dedicated to the state highway fund and may be used solely for the payment of principal and interest on any loan or loans obtained by the department of transportation for the purpose of repaying federal highway funds advanced to the state under section 1054 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102-240; 105 Stat. 1914; 23 U.S.C. 120, note].

Collection. The taxes imposed pursuant to this chapter constitute a debt due the state and may be collected by civil action, in addition to all other methods

provided by law and in this chapter. The taxes, together with interest and penalties, shall constitute and be secured by a lien upon the property of any person from whom taxes are due or who are required to pay taxes. All provisions of the tax laws of this state which apply to the enforcement of liens for license taxes and bonding taxes due the state apply fully to the collection of the taxes levied in this chapter, and the tax commissioner shall collect these taxes and enforce this chapter and shall have and exercise for collection and enforcement all rights and remedies that this state or the tax commissioner has for collection of the state sales tax. All provisions of the state sales tax, with respect to definitions, except the definition of "gross receipts" contained therein, payment and assessment of the state sales tax, making of reports and keeping and preserving records, interest after the due date of tax, penalties for failure to pay tax or otherwise complying with the state sales tax statutes, the promulgation of rules, and the administration and enforcement of the state sales tax statutes, which are not inconsistent with the provisions of this chapter when applied to the tax levied, apply to the tax levied in this chapter. The tax commissioner shall have and exercise the same powers, duties, and obligations with respect to the taxes levied in this chapter as are imposed on the tax commissioner by the state sales tax statutes. All provisions of the state sales tax statutes that are made applicable in this chapter to the taxes levied and to the administration of this section are incorporated by reference and made a part as if fully set forth in this chapter; provided, that the provisions of the state sales tax with respect to the collection by the taxpayer of the tax levied do not apply, the taxes levied being levied against the person required to pay the tax to the state.

SECTION 2. EXPIRATION DATE. This Act is effective until the loan or loans obtained by the department of transportation for the purpose of repaying federal highway funds advanced to the state under section 1054 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102-240; 105 Stat. 1914; 23 U.S.C. 120, note] have been paid or through the taxable year ending December 31, 1997, whichever occurs first.

Approved March 22, 1993
Filed March 23, 1993

CHAPTER 562

SENATE BILL NO. 2517
(Senator Redlin)
(Representative Aarsvold)

PUBLIC FACILITY ADMISSIONS SALES TAXES

AN ACT to amend and reenact subsection 4 of section 57-39.2-04 of the North Dakota Century Code, relating to application of sales taxes to admissions to activities held in publicly owned facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 57-39.2-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs, and the gross receipts from educational, religious, or charitable activities, unless the activities are held in a publicly owned facility, where the entire amount of net receipts is expended for educational, religious, or charitable purposes and the gross receipts derived by any public school district if such receipts are expended in accordance with section 15-29-13. This exemption does not apply to regular retail sales that are in direct competition with retailers. Gross receipts from educational, religious, or charitable activities held in a publicly owned facility are exempt if the sponsoring organization is a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis.

Approved March 15, 1993
Filed March 16, 1993

CHAPTER 563

HOUSE BILL NO. 1128
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

FOREIGN POLITICAL SUBDIVISION EXEMPTION

AN ACT to amend and reenact subsection 6 of section 57-39.2-04 of the North Dakota Century Code, relating to the sales and use tax exemption of out-of-state political subdivisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 57-39.2-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. Gross receipts from all sales otherwise taxable under this chapter made to the United States or to any state ~~thereof~~, including the state of North Dakota, or any of the subdivisions, departments, agencies, or institutions ~~thereof~~ of any state. A political subdivision of another state is exempt under this subsection only if it is exempt from sales tax in its home state. The governmental units exempted by this subsection shall be issued a certificate of exemption by the commissioner and such certificate shall be presented to each retailer whenever this exemption is claimed.

Approved March 15, 1993
Filed March 16, 1993

CHAPTER 564

SENATE BILL NO. 2190
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

FUEL AND OTHER TAX REVISIONS

AN ACT to amend and reenact subsection 10 of section 57-39.2-04, sections 57-40.3-10, 57-43.1-03, 57-43.1-10, 57-43.1-42.1, and 57-43.2-35.1 of the North Dakota Century Code, relating to the exemption of gaming tickets from sales tax, allocation of revenue for motor vehicle fuel taxes, and refunds of motor vehicle fuels and special fuel taxes; and to repeal sections 57-43.1-41, 57-43.1-42.2, and 57-43.2-34 of the North Dakota Century Code, relating to the authorization of the tax commissioner to relieve fuel dealers from collecting tax from licensed fuel importers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 10 of section 57-39.2-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

10. Gross receipts from the sale of gasoline, insurance premiums, gaming tickets, or any other article or product, except as otherwise provided, upon which the state of North Dakota imposes a special tax.

SECTION 2. AMENDMENT. Section 57-40.3-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-40.3-10. Transfer of revenue. All moneys collected and received under this chapter must be transmitted monthly by the registrar to the ~~state tax commissioner and must be paid to the~~ state treasurer to be transferred and credited to the general fund.

SECTION 3. AMENDMENT. Section 57-43.1-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-43.1-03. Refund of tax for fuel used for industrial purposes - Reduction for agricultural fuel tax fund. Any person who buys or uses any motor vehicle fuel as defined in section 57-43.1-01 for industrial purposes, except motor vehicle fuel used in motor vehicles operated or intended to be operated in whole or in part upon any of the public highways of this state on which the motor vehicle fuel tax has been paid, must be reimbursed or repaid within the time provided in this chapter, the amount of the tax paid upon the presentation to and the approval of the commissioner of a claim for refund. The amount of the tax refund provided for in this section must be reduced by one-half cent per gallon [3.79 liters], except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users, and the one-half cent per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund. ~~Those persons who have a valid tax assignment permit issued by the commissioner under section 57-43.1-11 must be charged one-half cent per gallon [3.79 liters] by the dealer and the one-half cent~~

~~charge must be remitted to the commissioner by the dealer when the dealer submits the tax assigned invoices for credit.~~

SECTION 4. AMENDMENT. Section 57-43.1-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-43.1-10. Invoice issued to purchaser. Every seller of motor vehicle fuel shall issue to each purchaser, who purchases motor vehicle fuel for agricultural or industrial purposes, a duplicate original invoice for each sale, which must be in the form prescribed by the commissioner and must show the date, name, residence and license number, if any, of the seller, and the number of gallons [liters] of motor vehicle fuel sold. Each invoice so issued must be signed by the purchaser and the seller shall retain one of such duplicate invoices as part of the seller's business records for not less than ~~two~~ three years.

SECTION 5. AMENDMENT. Section 57-43.1-42.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-43.1-42.1. Credit for taxes paid on worthless accounts and refunds. Taxes paid on motor vehicle fuel represented by accounts found to be worthless and actually charged off for income tax purposes, may be taken as a credit against subsequent taxes due. If the worthless account is subsequently collected, the tax must be remitted on the amount collected. If in any case the credit, or any part of it, cannot be utilized by the dealer because of a discontinuance of a business or for other valid reason, the amount may be refunded to the dealer.

SECTION 6. AMENDMENT. Section 57-43.2-35.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-43.2-35.1. Credit for taxes paid on worthless accounts and refunds. Taxes paid on special fuels represented by accounts found to be worthless and actually charged off for income tax purposes may be taken as a credit against subsequent taxes due. If the worthless account is subsequently collected, the tax must be remitted on the amount collected. If in any case the credit, or any part of it, cannot be utilized by the dealer because of a discontinuance of a business or for other valid reason, the amount may be refunded to the dealer.

SECTION 7. REPEAL. Sections 57-43.1-41 and 57-43.2-34 of the North Dakota Century Code and section 57-43.1-42.2 of the 1991 Supplement to the North Dakota Century Code are repealed.

Approved March 10, 1993
Filed March 11, 1993

CHAPTER 565

SENATE BILL NO. 2051
(Legislative Council)
(Interim Waste Management Committee)

RECYCLING EQUIPMENT SALES TAX EXEMPTION

AN ACT to amend and reenact section 57-39.2-04.3 of the North Dakota Century Code, relating to a sales and use tax exemption for recycling machinery and equipment; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-39.2-04.3 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04.3. Sales tax exemption for manufacturing or recycling machinery and equipment.

1. Gross receipts from sales of machinery or equipment used directly in manufacturing of tangible personal property for wholesale, retail, or lease are exempt from taxes under this chapter. To be exempt, the machinery or equipment must be used in a new manufacturing plant or in physical or economic expansion of an existing manufacturing plant. Purchase of replacement machinery or equipment is not exempt unless it results in a physical or economic expansion of the plant.
2. Gross receipts from sales of machinery or equipment used directly in recycling of tangible personal property are exempt from taxes under this chapter. To be exempt, the machinery or equipment must be used in a new recycling facility or in physical or economic expansion of an existing recycling facility. Purchase of replacement machinery or equipment is not exempt unless it results in a physical or economic expansion of the facility.
3. To qualify for exemption at the time of purchase, the manufacturer or recycler must receive from the commissioner a certificate stating that the machinery or equipment qualifies for the exemption. If a certificate is not received before the purchase, the manufacturer or recycler must pay the tax and apply to the commissioner for a refund.
- ~~3-~~ 4. If the machinery or equipment is purchased or installed by a contractor subject to tax under this chapter, the manufacturer or recycler must apply for a refund of the amount remitted by the contractor.
- 4- 5. For purposes of this section, the following definitions apply:
 - a. "Economic expansion" means an increase in production volume, employment, or the types of products that can be manufactured or recycled.

- b. "Equipment" means any tangible personal property other than machinery used directly in the manufacturing or recycling process.
- c. "Machinery" means mechanical devices purchased or constructed by the manufacturer or recycler, or its agent, and used directly in the manufacturing or recycling process. The term includes electrical, mechanical, and electronic components that are part of machinery and necessary for a machine to produce its effect or result.
- d. "Machinery" and "equipment" do not include handtools, buildings, or transportation equipment not directly used in manufacturing or recycling; office machines and equipment; machines and equipment used in administrative, accounting, sales, or other segments of the business; any property that becomes a part of the manufactured or recycled product; or any other equipment or machinery not used directly and solely in manufacturing or recycling.
- e. "Manufacturing", in addition to the meaning ordinarily ascribed to it, means the processing of agricultural products, including registered and certified seed, but does not include mining, refining, extracting oil and gas, or the generation of electricity.
- f. "Recycling" means collecting or recovering material that would otherwise be solid waste and performing all or part of the process in which the material becomes a raw material for manufacturing or becomes a product for sale at retail or wholesale.
- g. "Used directly" with respect to manufacturing means used solely in the actual production during processing, fabrication, or assembly of raw materials, or partially finished materials, into the form in which the product is finalized, packaged, and ready for market. The term also means:
- (1) To effect a direct and immediate physical change upon the tangible personal property.
 - (2) To guide or measure a direct and immediate physical change upon the property where the function is an integral and essential part of tuning, verifying, or aligning the component parts of the tangible personal property.
 - (3) To test or measure the property on the production line or at a site in the immediate location of production.
 - (4) To transport, convey, or handle the tangible personal property during the manufacturing.
 - (5) To package the product for sale and shipment. "Used directly" with respect to recycling means used solely in processing, compacting, altering, transporting, or otherwise affecting material as a part of the recycling process.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 1995, and after that date is ineffective.

Approved April 12, 1993
Filed April 12, 1993

CHAPTER 566

SENATE BILL NO. 2509
(Senators Solberg, Tallackson, Tennefos)
(Representatives Mahoney, Porter, Svedjan)

MANUFACTURING MACHINERY SALES TAX EXEMPTION

AN ACT to amend and reenact subsection 4 of section 57-39.2-04.3 of the North Dakota Century Code, relating to the sales and use tax exemption for new manufacturing machinery and equipment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 57-39.2-04.3 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. For purposes of this section, the following definitions apply:
 - a. "Economic expansion" means an increase in production volume, employment, or the types of products that can be manufactured.
 - b. "Equipment" means any tangible personal property other than machinery used directly in the manufacturing process.
 - c. "Machinery" means mechanical devices purchased or constructed by the manufacturer or its agent and used directly in the actual manufacturing process operations at any time from the initial stage where the raw material is first acted upon and changed in any essential respect through the completion and packaging of the product. The term includes electrical, mechanical, and electronic components that are part of machinery and necessary for a machine to produce its effect or result and environmental control equipment required to maintain certain levels of humidity or temperature in a special and limited area of the manufacturing facility where the regulation is essential for production to occur.
 - d. "Machinery" and "equipment" do not include handtools, buildings, or transportation equipment not used directly ~~used~~ in manufacturing; office machines and equipment; machines and equipment used in administrative, accounting, sales, or other segments of the business; any property that becomes a part of the manufactured product; or any other equipment or machinery not used directly and solely in manufacturing.
 - e. "Manufacturing", in addition to the meaning ordinarily ascribed to it, means the processing of agricultural products, including registered and certified seed, but does not include mining, refining, extracting oil and gas, or the generation of electricity.
 - f. "Used directly" means used solely in the actual production ~~during~~, processing, fabrication, or assembly of raw materials, or partially

finished materials, into the form in which the product is finalized, packaged, and ready for market. The term also means:

- (1) To effect a direct ~~and immediate~~ physical change upon the tangible personal property.
- (2) To guide or measure a direct ~~and immediate~~ physical change upon the property where the function is an integral and essential part of tuning, verifying, or aligning the component parts of the tangible personal property.
- (3) To test or measure the property on the production line or at a site in the ~~immediate~~ location of production.
- (4) To transport, convey, or handle the tangible personal property during the manufacturing.
- (5) To package the product for sale and shipment.

Approved March 15, 1993
Filed March 16, 1993

CHAPTER 567

SENATE BILL NO. 2468
(Senator Nelson)

SALES TAX PERMITHOLDERS LIST ACCESS

AN ACT to amend and reenact section 4 of chapter 99 of the 1991 Session Laws of North Dakota, relating to the expiration date of the time limit for access to the list of sales tax permitholders by the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4 of chapter 99 of the 1991 Session Laws of North Dakota is amended and reenacted as follows:

SECTION 4. EXPIRATION DATE. Section 3 of this Act is effective through June 30, ~~1993~~ 1995, and after that date is ineffective.

Approved April 12, 1993
Filed April 12, 1993

CHAPTER 568

HOUSE BILL NO. 1216
(Representative Payne)

MOTOR VEHICLE EXCISE TAX REFUND PERIOD

AN ACT to amend and reenact section 57-40.4-01 of the North Dakota Century Code, relating to extension of the statute of limitations regarding a refund of motor vehicle excise tax to a purchaser who is permanently physically disabled or a disabled veteran; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-40.4-01 of the North Dakota Century Code is amended and reenacted as follows:

57-40.4-01. Motor vehicle excise tax refunds - Three-year limitation - Exception. If it shall appear that any motor vehicle excise tax paid on or after July 1, 1967, was paid in error, or for any other reason the tax was not due under the provisions of chapter 57-40.3, the tax shall be refunded to the person who paid the same upon an application made and duly allowed in accordance with this chapter; provided, that the application is made within three years from the date of the payment of the tax, except that for a disabled veteran or permanently physically disabled person the application must be made within five years from the date of the payment of the tax.

SECTION 2. EFFECTIVE DATE. This Act is retroactively effective for any motor vehicle purchase made after December 31, 1987.

SECTION 3. EXPIRATION DATE. This Act is effective through September 1, 1993, and after that date is ineffective.

Approved April 1, 1993
Filed April 2, 1993

CHAPTER 569

SENATE BILL NO. 2232
(Political Subdivisions Committee)
(At the request of State Radio Communications)

911 SYSTEM STANDARDS

AN ACT to amend and reenact subsection 2 of section 1 of chapter 720 of the 1987 Session Laws of North Dakota as amended by section 1 of chapter 726 of the 1989 Session Laws of North Dakota, relating to standards and guidelines for 911 telephone systems.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 1 of chapter 720 of the 1987 Session Laws of North Dakota as amended by section 1 of chapter 726 of the 1989 Session Laws of North Dakota is amended and reenacted as follows:

2. The advisory committee with the assistance of the state radio communications office shall establish standards and guidelines for the development and operation of all emergency 911 telephone systems ~~that utilize a workable local, governmental location system~~. The standards and guidelines are to establish the level of emergency 911 telephone system services to be provided and the uniformity and compatibility of emergency 911 telephone systems in the state.

Approved March 10, 1993
Filed March 11, 1993

CHAPTER 570

HOUSE BILL NO. 1188
(Transportation Committee)
(At the request of State Radio Communications)

EMERGENCY SERVICES COMMUNICATION COMMITTEE

AN ACT to amend and reenact section 3 of chapter 720 of the 1987 Session Laws of North Dakota as amended by section 6 of chapter 686 of the 1991 Session Laws of North Dakota, relating to the expiration date of the emergency services communication system advisory committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 3 of chapter 720 of the 1987 Session Laws of North Dakota as amended by section 6 of chapter 686 of the 1991 Session Laws of North Dakota is amended and reenacted as follows:

SECTION 3. EXPIRATION DATE. This Act is effective through June 30, ~~1994~~ 1996, and after that date is ineffective.

Approved April 19, 1993
Filed April 20, 1993

CHAPTER 571

SENATE BILL NO. 2211
(Political Subdivisions Committee)
(At the request of the State Radio Communications)

ENHANCED 911 DATA

AN ACT to create and enact two new sections to chapter 57-40.6 of the North Dakota Century Code, relating to enhanced 911 data bases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-40.6 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Data base. In 911 systems that have been approved by the state emergency service communication system advisory committee, any telecommunications company providing emergency 911 service shall provide, on an annual basis, current customer names, addresses, and telephone numbers to each public service answering point within each 911 system and shall update the information according to a schedule prescribed by the state 911 advisory committee's standards and guidelines. Information provided under this section must be provided in accordance with the transactional record disclosure requirements of the federal Electronics Communications Privacy Act of 1986, 18 U.S.C. 2703 (C)(1)(B)(iv).

SECTION 2. A new section to chapter 57-40.6 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Use of the furnished information. Names, addresses, and telephone numbers provided to a 911 public service answering point under section 1 of this Act are private data and may be used only for verifying the location or identity, or both, for response purposes only, of a person calling a 911 answering point for emergency help. The information furnished may not be used or disclosed by the public service answering point or its agents or employees for any other purpose except under a court order.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 572

HOUSE BILL NO. 1187
(Transportation Committee)
(At the request of State Radio Communications)

EMERGENCY COMMUNICATIONS LIABILITY

AN ACT to create and enact a new section to chapter 57-40.6 of the North Dakota Century Code, relating to liability for an act or omission in connection with any emergency services communication system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-40.6 of the North Dakota Century Code is created and enacted as follows:

Emergency services communication system or emergency instructions - Liability.

1. A public agency, public safety agency, or local exchange telecommunications company that provides access to an emergency system at or below cost, or any officer, agent, or employee of any public agency or local exchange telecommunications company, is not liable for any civil damages as a result of any act or omission except willful and wanton misconduct or gross negligence in connection with developing, adopting, operating, or implementing any plan or system as provided under chapter 57-40.6.
2. A person who gives emergency instructions through a system as provided under chapter 57-40.6, to persons rendering services in an emergency at another location, or any person following such instructions in rendering such services, is not liable for any civil damages as a result of issuing or following the instructions, unless issuing or following the instructions constitutes willful and wanton misconduct or gross negligence.
3. This section does not waive, limit, or modify any existing immunity or other defense of the state or any political subdivision, or any of its agencies, departments, commissions, boards, officers, or employees, nor does it create any claim for relief against any of these entities.

Approved April 14, 1993
Filed April 15, 1993

CHAPTER 573

HOUSE BILL NO. 1399
(Representatives Dorso, Wald)

FUELS TAX CONTINGENT INCREASE

AN ACT to create and enact a new section to chapter 57-43.1, a new section to chapter 57-43.2, and a new subsection to section 57-43.2-23 of the North Dakota Century Code, relating to additional motor vehicle fuels taxes and special fuels taxes to be imposed if additional federal highway matching funds become available; to amend and reenact subsection 1 of section 57-43.2-14 and section 57-43.2-15 of the North Dakota Century Code, relating to special fuel users; to provide a penalty; to provide an appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-43.1 of the North Dakota Century Code is created and enacted as follows:

Additional motor vehicle fuels taxes. An additional tax in the amount and upon the conditions provided in this section is imposed on all motor vehicle fuel sold or used in this state.

1. For purposes of this section:

a. "Additional federal highway matching funds" means amounts of federal highway matching funds available to this state in excess of eighty-four million dollars for the 1993-95 biennium, for which a letter of commitment is received from the federal highway administration.

b. "Letter of commitment" means a communication irrevocably providing that additional federal highway matching funds are available to the state of North Dakota on a matching fund basis.

2. The tax imposed under this section applies from the first day of the first full month beginning at least ten days after the director of the department of transportation certifies to the tax commissioner that a letter or letters of commitment have been received obligating federal funds in the amounts provided in this subsection. The tax imposed by this section is as follows:

a. An additional tax of one cent per gallon [3.79 liters] if the cumulative amount of additional federal highway matching funds available to the state according to letters of commitment received before June 30, 1995, is more than six million dollars.

b. In addition to the tax under subdivision a, an additional tax of one cent per gallon [3.79 liters] if the cumulative amount of additional federal highway matching funds available to the state according to

letters of commitment received before June 30, 1995, is more than nineteen million five hundred thousand dollars.

- c. In addition to the taxes imposed by subdivisions a and b, an additional tax of one cent per gallon [3.79 liters] if the cumulative amount of additional federal highway matching funds available to the state according to letters of commitment received before June 30, 1995, is more than thirty-three million dollars.

SECTION 2. A new section to chapter 57-43.2 of the North Dakota Century Code is created and enacted as follows:

Additional special fuel tax. An additional excise tax is imposed on the sale or delivery of any special fuel taxable under subsection 1 of section 57-43.2-02, in the amount and upon the conditions provided in this section.

1. For purposes of this section:

- a. "Additional federal highway matching funds" means amounts of federal highway matching funds available to this state in excess of eighty-four million dollars for the 1993-95 biennium, for which a letter of commitment is received from the federal highway administration.
- b. "Letter of commitment" means a communication irrevocably providing that additional federal highway matching funds are available to the state of North Dakota on a matching fund basis.

2. The tax imposed under this section applies from the first day of the first full month beginning at least ten days after the director of the department of transportation certifies to the tax commissioner that a letter or letters of commitment have been received obligating federal funds in the amounts provided in this section. The tax imposed by this section is as follows:

- a. An additional tax of one cent per gallon [3.79 liters] if the cumulative amount of additional federal highway matching funds available to the state according to letters of commitment received before June 30, 1995, is more than six million dollars.
- b. In addition to the tax under subdivision a, an additional tax of one cent per gallon [3.79 liters] if the cumulative amount of additional federal highway matching funds available to the state according to letters of commitment received before June 30, 1995, is more than nineteen million five hundred thousand dollars.
- c. In addition to the taxes imposed by subdivisions a and b, an additional tax of one cent per gallon [3.79 liters] if the cumulative amount of additional federal highway matching funds available to the state according to letters of commitment received before June 30, 1995, is more than thirty-three million dollars.

SECTION 3. AMENDMENT. Subsection 1 of section 57-43.2-14 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided in this section, the commissioner may proceed to audit the returns of special fuel dealers and purchase records of special fuel users and, not later than three years after the due date of the return, or three years after the return was filed, whichever period expires later, or three years after purchase by a special fuel user, assess the tax and, if any additional tax is found due, the commissioner shall notify the taxpayer in detail of the reason for the increase.

SECTION 4. AMENDMENT. Section 57-43.2-15 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-43.2-15. Refusal or failure to file return or pay tax when due - Deficiencies - Penalties. If any special fuel dealer refuses or fails to file a return required by this chapter or fails to pay the tax due within the time prescribed by section 57-43.2-12, there is imposed a penalty of five dollars or a sum equal to five percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction of a month during which ~~such~~ the refusal or failure continues, excepting the month within which the tax became due. If any special fuel user fails to pay any tax due under this chapter, the commissioner shall impose a penalty of five dollars or a sum equal to five percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction of a month during which the refusal or failure continues, not including the month within which the tax became due. The commissioner, for good cause shown, may waive the penalty or the interest provided by this section. No licensed special fuel dealer may be held liable for taxes due from a special fuel user.

SECTION 5. A new subsection to section 57-43.2-23 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Use special fuel for which an exemption was claimed under section 57-43.2-02 for any nonexempt purpose.

SECTION 6. APPROPRIATION. There is hereby appropriated out of any moneys in the state highway tax distribution fund in the state treasury, the entire state's share of revenue from the additional tax imposed by sections 1 and 2 of this Act, but not exceeding \$22,500,000, or so much of the sum as may be necessary, plus up to \$43,000,000 of additional federal highway matching funds as defined in section 1 of this Act, to the department of transportation for the purpose of providing funds needed to match additional federal highway matching funds and to authorize the expenditure of those funds and federal funds that may become available for highway purposes for the biennium beginning July 1, 1993, and ending June 30, 1995.

SECTION 7. EXPIRATION DATE. Sections 1 and 2 of this Act are ineffective after December 31, 1995.

Approved April 30, 1993
Filed May 3, 1993

CHAPTER 574

SENATE BILL NO. 2455
(Senator Lindgren)

COUNTY DEBT PROCEDURES

AN ACT to amend and reenact sections 57-47-02, 57-47-03, and 57-47-04 of the North Dakota Century Code, relating to the county deficiency levy; and to repeal section 57-47-01 of the North Dakota Century Code, relating to lending by the Bank of North Dakota and banking associations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-47-02 of the North Dakota Century Code is amended and reenacted as follows:

57-47-02. County authorized to borrow - Term - Interest rate. Whenever in the judgment of the board of county commissioners all taxes authorized to be levied in any one year for general or special county purposes are insufficient to carry on the primary governmental functions, or to pay the mandatory obligations imposed by law upon a county, then such a county may borrow money ~~from the Bank of North Dakota or a banking association~~ in such an amount as the board shall determine to be necessary to meet the deficiencies existing in its general or special funds, or to carry on primary governmental functions, and to pay mandatory obligations. For the purpose of borrowing, a county may issue ~~an evidence~~ evidences of indebtedness, which must consist of an agreement by the county to pay a stated sum on a specified date, or on or before a specified date, not more than five years in the future, together with interest thereon at a rate or rates resulting in an average annual net interest cost not to exceed twelve percent per annum if sold privately, or with no interest rate ceiling if sold at a public sale or to the ~~Bank~~ state of North Dakota ~~or any of its agencies or instrumentalities~~. A public sale must comply with the procedures set out in chapter 21-03. There is no requirement for an advertisement for bids if an evidence of indebtedness is sold privately or to the ~~Bank~~ state of North Dakota ~~or any of its agencies or instrumentalities~~.

SECTION 2. AMENDMENT. Section 57-47-03 of the North Dakota Century Code is amended and reenacted as follows:

57-47-03. Application for loan - Contents —Verified. Whenever the board of county commissioners desires to ~~make a loan~~ issue evidences of indebtedness for any of the purposes authorized in this chapter, it shall ~~make an application which shall set forth~~ provide information to prospective purchasers, including the assessed valuation of the county, the amount of taxes levied for the current year or years involved, the status of its general and special funds, and the amount required to carry on its primary governmental functions and to pay its mandatory obligations, and such other data as the ~~industrial commission or the state banking board purchaser~~ may require. ~~The application shall be verified by the certificate of the county auditor as to its accuracy.~~

SECTION 3. AMENDMENT. Section 57-47-04 of the North Dakota Century Code is amended and reenacted as follows:

57-47-04. Levy of tax to repay loan - Limitation. Upon the ~~approval of an application for a loan~~ issuance of the evidence of indebtedness, the board of county commissioners shall levy a general tax from year to year upon all of the general taxable property of the county, not exceeding the limitation in subsection 27 of section 57-15-06.7, for the purpose of providing funds sufficient to repay the amount of the loan, with interest, at the time of maturity. The tax may not exceed three mills for any one year regardless of the number of loans outstanding under this chapter.

SECTION 4. REPEAL. Section 57-47-01 of the North Dakota Century Code is repealed.

Approved March 16, 1993
Filed March 16, 1993

CHAPTER 575

HOUSE BILL NO. 1492
(Representatives Kempenich, Byerly, Drovdal)
(Senators Goetz, Krauter)

OIL AND GAS TAX UNALLOCATED REVENUES

AN ACT to amend and reenact section 57-51-16 of the North Dakota Century Code, relating to disposition of unallocated revenues from oil and gas gross production taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-51-16 of the North Dakota Century Code is amended and reenacted as follows:

57-51-16. Distribution of proceeds to general revenue fund in certain cases. ~~In all cases where~~ If gross production tax is paid to the commissioner and the reports accompanying such tax are insufficient to enable ~~said the~~ commissioner to determine the source, by county, from which it is produced ~~and he is unable to secure such information as will enable him to determine the source of such oil or gas, it shall be the duty of the commissioner, at the expiration of six months from the date of payment of such gross production tax, to apportion the same to the general fund of the state of North Dakota and to so certify to the state treasurer shall allocate those revenues under this section. In the first distribution to counties under section 57-51-15 which occurs after June gross production tax revenues are received by the state treasurer for allocation, the revenue under this section must be allocated as part of the revenue that is attributable to oil and gas produced in the county that received the least amount of revenue of the counties that received distributions under section 57-51-15 during the year ended June thirtieth.~~

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 576

HOUSE BILL NO. 1125
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

GROSS PRODUCTION TAX REFUND INTEREST

AN ACT to amend and reenact section 57-51-19 of the North Dakota Century Code, relating to interest on overpayment of oil and gas gross production taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-51-19 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-51-19. Claim for credit or refund. In all cases of overpayment, duplicate payment, or payment made in error, the commissioner may issue a certificate stating therein the facts and the amount of the refund to which the taxpayer may be entitled. Upon presentation of the certificate to the state auditor, the state auditor shall issue a warrant for the purpose of refunding any overpayment, duplicate payment, or payment made in error out of the unapportioned gross production tax in the state treasury and a pro rata share thereof must be charged against the county entitled to share in the tax. Interest at the rate of ten percent per annum must be paid on arising from refunds of overpayments, duplicate payments, and erroneous payments must be allowed and paid at the rate of ten percent per annum and accrues for payment from sixty days after the due date of the return or after the return was filed or after the tax was fully paid, whichever comes later.

A taxpayer may file a claim for credit or refund of an overpayment of tax. For taxable periods beginning before January 1, 1991, the claim must be filed within six years of the due date of the return or six years after the return was filed. For taxable periods beginning after December 31, 1990, and before January 1, 1993, the taxpayer must file a claim within five years. For taxable periods beginning after December 31, 1992, and before January 1, 1995, the taxpayer must file a claim within four years. For taxable periods beginning after December 31, 1994, the taxpayer must file the claim within three years. However, if there is a change in tax liability on any return by an amount in excess of twenty-five percent of the amount of tax liability reported on a return, a claim for refund of tax may be filed within six years after the due date of the return or six years after the return was filed, whichever period expires last.

SECTION 2. EFFECTIVE DATE. This Act becomes effective for refunds arising from production periods beginning after June 30, 1993.

Approved March 19, 1993
Filed March 19, 1993

CHAPTER 577

SENATE BILL NO. 2279
(Senators Yockim, O'Connell)
(Representatives Byerly, Dobrinski)

WORKED-OVER WELL EXEMPTION

AN ACT to amend and reenact section 57-51.1-02 and subsection 4 of section 57-51.1-03 of the North Dakota Century Code, relating to application of the oil extraction tax to oil produced from a well that was worked over; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-51.1-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-51.1-02. Imposition of oil extraction tax. There is hereby imposed an excise tax, to be known as the "oil extraction tax", upon the activity in this state of extracting oil from the earth, and every owner, including any royalty owner, of any part of the oil extracted shall be deemed for the purposes of this chapter to be engaged in the activity of extracting that oil. The rate of tax shall be six and one-half percent of the gross value at the well of the oil extracted, except that for oil produced from wells drilled and completed after April 27, 1987, and not otherwise exempt under section 57-51.1-03, for oil produced from a secondary or tertiary recovery project that was certified as qualifying by the industrial commission before July 1, 1991, for oil that does not qualify as incremental oil but is produced from a secondary or tertiary recovery project that is certified as qualifying by the industrial commission after June 30, 1991, and for incremental oil produced from a secondary or tertiary recovery project that is certified as qualifying by the industrial commission after June 30, 1991, and which production is not otherwise exempt under section 57-51.1-03, or for oil produced from a well that receives an exemption pursuant to subsection 4 of section 57-51.1-03 after June 30, 1993, and which production is not otherwise exempt under section 57-51.1-03, the rate of tax shall be four percent of the gross value at the well of the oil extracted. However, if the average price of a barrel of crude oil for any consecutive five-month period in any year is thirty-three dollars or more, then the rate of tax for the following months on all taxable wells is six and one-half percent of the gross value at the well of the oil extracted. However, if after the aforementioned trigger provision becomes effective, the average price of a barrel of crude oil is less than thirty-three dollars for any consecutive five-month period in any year, the rate of tax reverts to four percent of the gross value at the well of the oil extracted for any wells drilled and completed after April 27, 1987, and not otherwise exempt under section 57-51.1-03, and for a qualifying secondary recovery project or for a qualifying tertiary recovery project.

SECTION 2. AMENDMENT. Subsection 4 of section 57-51.1-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. The production of oil from a qualifying well that was worked over is exempt from any taxes imposed under this chapter for a period of twelve months, beginning with the first day of the third calendar month after the completion of the work-over project. The exemption provided by this subsection is only effective if the well operator files a notice of intention to begin a work-over project with the industrial commission prior to commencement of the project and establishes to the satisfaction of the industrial commission upon completion of the project that the cost of the project exceeded ~~either a minimum of sixty-five thousand dollars or a minimum of thirty thousand dollars~~ if production is increased at least fifty percent during the first two months after completion of the project. A qualifying well under this subsection is a well with an average daily production of no more than fifty barrels of oil during the latest six calendar months of continuous production prior to the filing of the notice required by this subsection. A work-over project under this subsection means the continuous employment of a work-over rig, including recompletions and reentries. The exemption provided by this subsection becomes ineffective if the average price of a barrel of crude oil for any consecutive five-month period in any year is thirty-three dollars or more. However, the exemption is reinstated if, after the aforementioned trigger provision becomes effective, the average price of a barrel of crude oil is less than thirty-three dollars for any consecutive five-month period in any year.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable periods beginning after June 30, 1993.

Approved April 12, 1993
Filed April 12, 1993

CHAPTER 578

HOUSE BILL NO. 1380
(Representatives Stenson, Thorpe, Wanzek, Sitz, Kempenich)
(Senator O'Connell)

DISABLED PERSON MOBILE HOME TAX EXEMPTION

AN ACT to amend and reenact subsection 1 of section 57-55-10 of the North Dakota Century Code, relating to exemption from mobile home taxation for a permanently and totally disabled person.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 57-55-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. A mobile home described in this subsection to the extent herein limited is exempt from taxation under this chapter; provided, that the mobile home shall have a tax permit as provided in section 57-55-06:
 - a. If it is owned and used as living quarters of a military person on active military duty in this state who is a resident of another state.
 - b. If it is owned and occupied by a welfare recipient, provided the mobile home is not permanently attached to the land and classified as real property. For the purposes of this subdivision, "welfare recipient" means any person who is certified to the county director of tax equalization by the county social service board as receiving the major portion of income from any state or federal public assistance program.
 - c. If it is owned and used as living quarters by a disabled veteran or unremarried surviving spouse who meets the requirements of subsection 20 of section 57-02-08.
 - d. If it is owned and used as living quarters by a permanently and totally disabled person or unremarried surviving spouse who meets the requirements of subsection 20 of section 57-02-08.
 - e. If it is owned and used as the living quarters for a blind person who meets the requirements of subsection 22 of section 57-02-08.
 - e- f. If it is owned and used by a person who uses it as living quarters and who qualifies for the homestead credit provided in section 57-02-08.1, and the mobile home shall be regarded for the purposes of this exemption as the homestead of the person claiming the exemption.

Approved April 1, 1993
Filed April 2, 1993

CHAPTER 579

HOUSE BILL NO. 1362
(Representatives Wardner, Kempenich, Timm)
(Senators Bowman, Krauter, Goetz)

COAL SEVERANCE TAX REDUCTION

AN ACT to create and enact a new section to chapter 57-61 of the North Dakota Century Code, relating to a severance tax reduction for coal mined for shipment out of state and to provide for allocation of the remaining tax revenues.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-61 of the North Dakota Century Code is created and enacted as follows:

Severance tax reduction for coal mined for out-of-state shipment. For coal subject to taxes under this chapter which is shipped out of state after June 30, 1995, and before July 1, 2000:

1. The coal is exempt from fifty percent of the taxes imposed under section 57-61-01.
2. The coal is subject to fifteen percent of the taxes imposed under section 57-61-01 and the entire revenue under this subsection must be deposited in the coal development trust fund for use as provided in subsection 1 of section 57-62-02 and allocation to the lignite research fund as provided in subsection 2 of section 57-61-01.5.
3. In addition to the taxes under subsection 2, the coal may be subject to up to thirty-five percent of the severance taxes imposed under section 57-61-01 at the option of the county in which the coal is mined. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal is shipped out of state a partial or complete exemption from this portion of the severance tax. Any tax revenue from full or partial taxation under this subsection must be allocated to the county under subsection 2 of section 57-62-02.
4. Taxes imposed under section 57-61-01.5 apply to coal subject to this section and must be allocated as provided in section 57-61-01.5.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 580

SENATE BILL NO. 2505
(Senators Keller, Freborg)
(Representatives Bodine, Mahoney, Tollefson)

SEVERANCE TAX COUNTIES' ALLOCATION

AN ACT to amend and reenact subdivision b of subsection 2 of section 57-62-02 of the North Dakota Century Code, relating to allocation of coal severance tax revenues between a coal-producing county and a non-coal-producing county; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision b of subsection 2 of section 57-62-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- b. If the tipple of a currently active coal mining operation in a county is within fifteen miles [24.14 kilometers] of another county in which no coal is mined, the revenue from the production not exceeding the production limitation in a calendar year which is apportioned from that coal mining operation according to this subsection must be allocated, subject to the definitions of terms and the requirements in paragraph 4, as provided in this subdivision. For purposes of this subdivision, the production limitation is three million eight hundred thousand tons [3447302.02 metric tons] through calendar year 1995, three million six hundred thousand tons [3265865.07 metric tons] in calendar years 1996 and 1997, and three million four hundred thousand tons [3084428.12 metric tons] in calendar years after 1997. Revenue from production exceeding the production limitation in a calendar year from that coal mining operation must be allocated only within the coal-producing county under subdivision a. Allocations under this subdivision must be made as follows:
- (1) Thirty percent must be paid by the state treasurer to the incorporated cities of the coal-producing county and to any city of a non-coal-producing county when any portion of the city lies within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation in the coal-producing county, based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census.
 - (2) Forty percent must be divided by the state treasurer between the general fund of the coal-producing county and the general fund of any non-coal-producing county when any portion of the latter county lies within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation in the

coal-producing county. The non-coal-producing county portion must be based upon the ratio which the assessed valuation of all quarter sections of land in that county, any portion of which lies within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation, bears to the combined assessed valuations of all land in the coal-producing county and the quarter sections of land in the non-coal-producing county within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation. The county director of tax equalization of the coal-producing county shall certify to the state treasurer the number of quarter sections of land in the non-coal-producing counties which lie at least in part within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation and their assessed valuations.

- (3) Thirty percent must be apportioned by the state treasurer to school districts within the coal-producing county and to school districts in adjoining non-coal-producing counties when a portion of those school districts' land includes any of the quarter sections of land certified by the director of tax equalization to the state treasurer to be eligible to share county funds as provided for in paragraph 2. The county superintendent of the non-coal-producing counties shall certify to the state treasurer the number of students actually residing on these quarter sections lying outside the coal-producing county and each school district in non-coal-producing counties shall receive a portion of the money under this paragraph based upon the ratio of the number of children residing on quarter sections of that school district within the fifteen-mile [24.14-kilometer] radius of the tipple of a currently active coal mining operation to the total number of schoolchildren from the coal-producing county combined with all the schoolchildren certified to be living on quarter sections within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation in the coal-producing county.
- (4) For the purposes of this ~~subdivision~~ subsection:
 - (a) The terms "currently active coal mining operation in a county", "currently active coal mining operation in the coal-producing county", and "currently active coal mining operation" mean a coal mining operation that produced more than one hundred fifty thousand tons [136077.71 metric tons] of coal in a coal-producing county during the prior quarterly period.
 - (b) The term "coal-producing county" means a county in which more than one hundred fifty thousand tons [136077.71 metric tons] of coal were mined in the prior quarterly period.
 - (c) The term "another county in which no coal is mined" means a county in which not more than seventy-five thousand tons [68038.86 metric tons] of coal were mined in the prior quarterly period.

- (d) The terms "non-coal-producing county" and "non-coal-producing counties" mean any county in which not more than seventy-five thousand tons [68038.86 metric tons] of coal were mined in the prior quarterly period.
- (e) In computing each amount to be paid as provided in paragraph 1, 2, or 3 for coal severance tax revenue from coal mined during a monthly period, the state treasurer shall deduct from the allocation the amount of coal severance tax revenue, if any, that the governmental body in the non-coal-producing county received from the coal mined in the non-coal-producing county during the same monthly period.

SECTION 2. EFFECTIVE DATE. This Act is effective for calendar years after 1993.

Approved April 12, 1993
Filed April 12, 1993

CHAPTER 581

SENATE BILL NO. 2358
(Senators Goetz, Keller, Tallackson)
(Representatives Dalrymple, Kaldor, St. Aubyn)

LIGNITE RESEARCH FUND REVENUES

AN ACT to create and enact a new subdivision to subsection 2 of section 57-62-02 of the North Dakota Century Code, relating to allocation of a portion of a county's share of coal severance tax revenues to the lignite research fund; to amend and reenact subsection 3 of section 57-62-02 of the North Dakota Century Code, relating to allocation of a portion of the state general fund share of coal severance tax revenues to the lignite research fund; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. If the amendment to the Constitution of North Dakota proposed by Senate Concurrent Resolution No. 4014, as approved by the Fifty-third Legislative Assembly, is not approved by the voters, subsection 3 of section 57-62-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. Fifty percent shall be deposited in the state's general fund, except that:
 - a. Five percent of the revenue allocated to the state general fund under this subsection, not including revenue allocated under subdivision b, must be deposited in the lignite research fund for partial funding of the state share of clean coal demonstration projects approved by the industrial commission and the United States department of energy. If no proposed clean coal demonstration projects are approved by the United States department of energy, this subdivision does not apply.
 - b. After June 30, 1997, the revenue allocated to the state general fund by this subsection which is attributable to severance taxes on new coal production from clean coal demonstration projects must be deposited in the lignite research fund for partial funding of the state share of the clean coal demonstration project generating the new coal production.

SECTION 2. AMENDMENT. If the amendment to the Constitution of North Dakota proposed by Senate Concurrent Resolution No. 4014, as approved by the Fifty-third Legislative Assembly, is approved by the voters, subsection 3 of section 57-62-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. Fifty percent shall be deposited in the state's general fund, except that after June 30, 1997, the revenue allocated to the state general fund under this subsection which is attributable to severance taxes on new coal production from clean coal demonstration projects must be deposited in the

lignite research fund for partial funding of the state share of the clean coal demonstration project generating the new coal production.

SECTION 3. If the amendment to the Constitution of North Dakota proposed by Senate Concurrent Resolution No. 4014, as approved by the Fifty-third Legislative Assembly, is not approved by the voters, a new subdivision to subsection 2 of section 57-62-02 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Notwithstanding any other provision of law, five percent of the revenue generated from a currently active coal mining operation that produces coal for a clean coal demonstration project and which is allocated to a county under paragraph 2 of subdivision a or paragraph 2 of subdivision b must be deposited in the lignite research fund for partial funding of the state share of clean coal demonstration projects approved by the industrial commission and United States department of energy, unless a job development authority makes a deposit from any source of the same amount determined under this subdivision into the lignite research fund. If no proposed clean coal demonstration project is approved by the United States department of energy, this subdivision does not apply.

SECTION 4. EFFECTIVE DATE. This Act becomes effective on July 1, 1994.

Approved March 24, 1993
Filed March 25, 1993