

TAXATION

CHAPTER 374

S. B. No. 227

(Mutch, Baeverstad, Holand)

DUTIES OF SUPERVISOR OF ASSESSMENTS

AN ACT

To amend and reenact subsection 4 of section 57-01-05 of the North Dakota Century Code Supplement, relating to the duties of the supervisor of assessments and prescribing a penalty.

Be It Enacted by the Legislative Assembly of the State of North Dakota: *

§ 1. Amendment.) Subsection 4 of section 57-01-05 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

4. He shall make sales ratio and other studies of property assessments in the various counties, cities, and villages of this state for the purpose of properly advising the various assessors in the state and for the purpose of recommending to the tax commissioner changes to be made by the state board of equalization in the performance of the equalization powers and duties prescribed for it by section 57-13-04. In any county, city, or village, or any part thereof where the number of sales of properties is insufficient for making a sales ratio study, the supervisor of assessments or his assistants shall make appraisals of properties in order to determine the ratio of market value to assessment value.

Approved March 21, 1963.

CHAPTER 375

S. B. No. 51

(Holand, Baeverstad, Luick, Becker, Reichert)
(From LRC Study)

SPOT CHECKS AND EQUALIZATION OF ASSESSMENTS

AN ACT

To amend and reenact subsection 6 of section 57-02-01, and sections 57-12-06, 57-23-03, and 57-24-31 of the North Dakota Century Code, relating to collection of property taxes, spot checking and correction of assessments made for property tax purposes, and to repeal sections 57-02-16 and 57-22-15 of the North Dakota Century Code.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Spot Checks of Real and Personal Property.) Prior to the annual meeting of the county board of equalization, the board of county commissioners of each county within this state shall provide for spot checks upon property within each county to properly verify the accuracy of the personal property listings and valuations and real property listings and valuations. In the case of personal property the spot checks shall not be less than one percent of the total separately owned personal property assessment listings. In the case of real property, spot checks shall be made only in the year of assessment on not less than one percent of the separately owned tracts or lots. Prior to the meeting at which the board of county commissioners reviews such spot checks and orders corrections in property assessment listings and valuations, notice shall be given to the boards of equalization of townships, cities, and villages that their property assessments shall be reviewed. The board of county commissioners shall direct the boards of equalization of townships, cities, or villages to make any necessary corrections where omissions or errors in assessment have been found. The board of county commissioners may select such persons or agencies as may be necessary to carry out the provisions of this section and provide for their compensation.

§ 2. Amendment.) Subsection 6 of section 57-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Municipality" or "taxing district" means a county, city, village, township, school district, water conservation and flood control district, Garrison diversion conservancy district, county park district, joint county

park district, irrigation district, park district, rural fire protection district, or any other subdivision of the state empowered to levy taxes;

§ 3. **Amendment.)** Section 57-12-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-12-06. Rules To Be Followed in Equalizing Between Assessment Districts and in Equalizing Between Property Owners.)

1. The rules prescribed in section 57-12-05 shall apply when the board of county commissioners is equalizing assessments between the several assessment and taxing districts in the county provided that in such case, except as otherwise provided in subsection 2 of this section, the board may raise or lower the valuation of classes of property only so as to equalize the assessments as between districts.

2. Notwithstanding any other provision of this section:

- a. The county board of equalization after notice to the local board of equalization may reduce the assessment on any separate piece or parcel of real estate or on the assessment to any person of any particular item or classification of personal property even though such property was assessed in a city, village, or township having a local board of equalization; provided that the county board of equalization shall not have authority to reduce any such assessment unless the owner of the property or the person to whom it was assessed shall first appeal to the county board of equalization, either by appearing personally or by a representative before the board or by mail or other communication to the board, in which his reasons for asking for the reduction are made known to the board; the proceedings of the board shall show the manner in which the appeal was made known to the board and the reasons for granting any reduction in any such assessment.
- b. The county board of equalization after notice to the local board of equalization may increase the assessment on any separate piece or parcel of real property or on the assessment to any person of any particular item or classification of personal property even though such property was assessed in a city, village, or township having a local board of equalization; provided that the county board of equalization shall not have authority to increase any such assessment unless it shall first give notice by mail to the owner of the property or the person in whose name it was assessed that such person

may appear before the board on the date designated in the notice, which date shall be at least five days after the mailing of the notice; the county auditor as clerk of the board shall send such notice to the person or persons concerned.

- c. In any case where the county board of equalization during the course of its equalization sessions determines that any property of any person has been listed and assessed in the wrong classification, it shall direct the county auditor to correct the listing so as to include such assessment in the correct classification.

§ 4. **Amendment.)** Section 57-23-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-03. Abatement of Invalid, Inequitable, or Unjust Assessments.) When the board of county commissioners is satisfied beyond a doubt that the assessment of real or personal property described in an application for abatement is invalid, inequitable, or unjust, the board, if application is filed on or before the first day of November in the year in which such taxes become delinquent, may abate any part thereof in excess of a just, fair, and equitable assessment if such application for correction complies with requirements of this chapter. Any person aggrieved by any decision of said board of county commissioners may appeal to the district court in the manner provided by law.

An application for refund of taxes paid with respect to any part of an assessment abated under this section shall be granted only if such taxes were paid under proper protest as provided by section 57-20-20 and by compliance with the other provisions of that section.

§ 5. **Amendment.)** Section 57-24-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-24-31. Collection of Real Estate Taxes on Leasehold or Other Possessory Interests.) If any holder of a leasehold or other possessory interest in exempt real property neglects or refuses to pay any real estate taxes legally assessed and levied thereon at such time as now is or may hereafter be required by law for the payment of real property taxes, such leasehold or other possessory interest shall be sold in the manner provided by law for the sale of real property for delinquent taxes. Such taxes shall also constitute a personal charge against the holder of the lease or other possessory interest from and after the day they become due, and all of

the provisions of law with respect to the enforcement of collection of personal property taxes shall be applicable.

§ 6. Repeal.) Sections 57-02-16 and 57-22-15 of the North Dakota Century Code are hereby repealed.

Approved March 8, 1963.

CHAPTER 376

H. B. No. 838

(Berg, Anderson (McHenry), Vinje, Johnston, Dick, Knudsen)

"FARM" DEFINED

AN ACT

To create and enact subsection 10 of section 57-02-01 of the North Dakota Century Code, relating to the definition of a farm for tax purposes.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) Subsection 10 of section 57-02-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

10. There shall be a presumption that a unit of land is not a farm unless such unit contains a minimum of five acres which normally provides the owner, lessee, or occupant farming the land with not less than fifty percent of his annual income.

Approved March 7, 1963.

CHAPTER 377

S. B. No. 197

(Baker, Brooks, Reichert, Longmire, Lips, Meidinger)

PROPERTY EXEMPT FROM TAXATION

AN ACT

To amend and reenact subsection 10 of section 57-02-08 of the North Dakota Century Code and subsection 11 of section 57-02-08 of the Supplement of the North Dakota Century Code defining the limits of exemption from taxation of property.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Subsection 10 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. Real and personal property of an agricultural fair association duly incorporated for the exclusive purpose of holding agricultural fairs, and not conducted for the profit of any of its members or stockholders; provided that all property described in this subsection shall be subject to taxation for the cost of fire protection services furnished by any municipal corporation in which said property is located.

§ 2. **Amendment.)** Subsection 11 of the Supplement of the North Dakota Century Code, section 57-02-08 is hereby amended and reenacted to read as follows:

11. Real and personal property owned by lodges, chapters, commanderies, consistories, farmers' clubs, commercial clubs, and like organizations, and associations, grand or subordinate, not organized for profit, and used by them for places of meeting and for conducting their business and ceremonies, and all real and personal property owned by any fraternity, sorority, or organization of college students if such property shall be used exclusively for such purposes; provided further that any portion of such premises not exclusively used for places of meeting and conducting the business and ceremonies of such organization shall be subject to taxation.

Provided, further, that where any such organization as contemplated by this subsection shall be licensed for the sale of alcoholic beverages as defined by the statutes of the state of North Dakota, such portion of such premises where such alcoholic beverages are consumed

or sold shall be deemed not to be so used exclusively for conduct of its business and meeting if such beverages are sold at a profit.

Provided, further, that if food other than that served at lodge functions and banquets and food sold or consumed in any fraternity or sorority house, is sold at a profit on the premises, that portion of the premises where such food is sold at a profit shall be deemed not to be used exclusively for places of meeting or conducting the business and ceremonies of such organization; provided that all property described in this subsection shall be subject to taxation for the cost of fire protection services furnished by any municipal corporation in which said property is located.

Approved March 16, 1963.

CHAPTER 378

S. B. No. 258
(Redlin, Trenbeath, Forkner)

TAXATION OF FARM MACHINERY

AN ACT

To amend and reenact subsection 2 of section 57-02-12 and section 57-02-20 of the North Dakota Century Code, relating to the listing and exemption of newly acquired farm machinery from taxation, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 2 of section 57-02-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Every person required to list property, when called upon by the assessor, shall make out and deliver to the assessor a statement, verified by oath, of all the personal property in his possession or under his control which he is required to list for taxation. Such sworn statement shall be in such form and shall contain such classifications of property as the tax commissioner may prescribe, subject to the supervision of the state board of equalization. Included upon such statement shall be a classification for farm machinery acquired subsequent to the last listing date.

§ 2. **Amendment.)** Section 57-02-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-20. Exemption of Farm Machinery for One Year.) The part of the value of farm machinery on which sales or use tax is paid, purchased after August first, to be used by the buyer in his farming operations, shall be exempt to the buyer from the personal property tax which would be assessed and levied against it in the first year after its purchase were this section not in force. No exemption shall be allowed, however, unless the buyer exhibits to the assessor satisfactory written proof that the North Dakota sales or use tax has been paid on such farm machinery. In addition, for each unit of farm machinery with a value exceeding three hundred dollars, if any buyer shall fail or refuse to exhibit such proof of the payment of such sales or use tax, the assessor shall report such fact, together with a description of the farm machinery involved to the tax commissioner on forms to be prescribed by the commissioner. The commissioner shall promptly proceed to determine the amount of any sales or use tax due with respect to the sale or purchase of such farm machinery and shall have available any of the methods provided in chapter 57-39 or 57-40 to secure collection of the amount due, including the authority to collect from the consumer or user any sales tax due; provided that any assessment made by the assessor on such farm machinery may be abated, and the personal property tax refunded if paid, pursuant to the provisions of chapter 57-23 if the machinery was assessed because sales or use tax was not paid but was thereafter collected from the consumer or user by the retailer or tax commissioner. Any dealer in farm machinery may not claim the exemptions provided for in this section even though farm machinery owned by him is used in farming operations.

§ 3. **Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 21, 1963.

CHAPTER 379

H. B. No. 870

(Lowe, Johnston, Maragos, Baldwin)

PRORATION OF REAL ESTATE TAXES

AN ACT

To amend and reenact section 57-02-41 of the North Dakota Century Code, relating to the prorating of taxes on real property between vendor and purchaser, if one or the other is a religious corporation or organization.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-02-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-41. Attachment of Tax Lien and Prorating Taxes as Between Vendor and Purchaser.) All taxes, as between vendor and purchaser, shall become a lien on real estate on and after the first day of January following the year for which such taxes were levied. In any case where real property is sold or otherwise disposed of or purchased or otherwise acquired by a religious corporation or organization after the assessment date and used for the purposes provided in subsection 7 or 9 of section 57-02-08, the property shall be liable for taxes during the portion of the year for which it has been assessed computed to the nearest month, such property was not used as provided in subsections 7 or 9 of section 57-02-08. The taxes so computed shall attach as a lien on such property and the purchaser shall take the property subject to such lien. When such property has not been assessed, it shall be assessed as omitted real property and taxes computed as herein provided.

Approved March 9, 1963.

CHAPTER 380

S. B. No. 122
(Robinson, Kamrath)

PAYMENTS IN LIEU OF REAL ESTATE TAXES

AN ACT

To provide for payments in lieu of taxes on real property owned by the state of North Dakota and controlled by the state game and fish department, and providing for an effective date.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Definitions.) As used in this chapter, unless the context or subject matter otherwise clearly indicates:

1. "Property subject to valuation" means real property owned by the state and controlled by the state game and fish department but shall not include any land leased by such department if such land is being assessed to the owner; and
2. "Net value" means the value of the property subject to valuation for the purpose of computing the payments to be due and shall be equal to fifty percent of the property subject to valuation as assessed and equalized less the valuation of any improvements to any real property.

§ 2. Imposition of Payments.) The state game and fish commissioner shall annually make payments, subject to legislative appropriations, to the counties in which property subject to valuation is located pursuant to the provisions of this Act. Such payments shall be in lieu of taxes which would otherwise be available to such counties if the real property upon which these payments are based were not owned by the state or state agencies.

§ 3. Assessment of Property—Notice of County Auditors.) All property subject to valuation under this chapter shall be assessed and valued for the purpose of making the payments herein provided for, in the same manner as other real property in this state is assessed and valued for tax purposes, except that improvements to any real property shall not be considered in such valuation. The county auditors of the counties in which such property is located, prior to the meeting of the state board of equalization, shall give notice in writing to the state game and fish commissioner of the

value placed upon the property subject to valuation by the county boards of equalization.

§ 4. Appearance Before State Board of Equalization.) The state board of equalization shall equalize the value placed upon any tract of land subject to valuation under this Act. The state game and fish commissioner may appear before the state board of equalization to be heard for the purpose of opposing any unreasonable or unjust value placed upon property subject to valuation as equalized by the county board of equalization, or of opposing any increase or decrease in such valuation as proposed by the state board of equalization, to the end that all valuations of like property may be uniform and equal throughout the state.

§ 5. Computation of Payment — Remittance to Counties.)

1. Upon receipt of the decision of the state board of equalization the state game and fish commissioner shall compute the payments due to the counties in which property subject to valuation is located by multiplying the net value by one percent. The payments due to each county shall be the figure determined as herein provided.

2. After computing the payments due to each county the state game and fish commissioner shall remit to such counties the amounts due from the department, on or before March first of the succeeding year for which the assessments and valuations were made.

§ 6. Allocation of Revenue Within Counties.) The revenue to which the county level of government is entitled shall be determined according to the proportion the county mill levy on other real property bears to the total mill levies on real property of each taxing district wherein the property subject to valuation is located. The revenue remaining after apportionment to the county level shall be apportioned and distributed among the various taxing districts in which the property for which payments are made is located by the county auditor upon a pro rata basis to be determined according to the proportion the assessed value of the property subject to valuation in each taxing district bears to the total assessed value of all such property subject to valuation within the county. The amount of revenue allocated to each taxing district in which such property subject to valuation is located shall be divided among the various funds of such district according to the proportion that the mill levy for any fund bears to the total of all mill levies spread against other property in the taxing district that is assessed and taxed on an ad valorem basis.

§ 7. **Effective Date of Act.)** The effective date of this Act shall be January 1, 1964, and no payments shall be due under the provisions of this chapter until March 1, 1965.

Approved March 18, 1963.

CHAPTER 381

H. B. No. 745

(Dornacker, Reiten, Stallman, Davis (Dickey), Wastvedt)

COUNTY BOARD OF EQUALIZATION MEETINGS

AN ACT

To amend and reenact section 57-12-01 of the North Dakota Century Code, relating to the meeting of the board of county equalization and requiring the attendance of certain city, village, and township officials, and to repeal section 57-12-07 of the North Dakota Century Code, relating to the voluntary attendance of certain city, village, and township officials at such meetings.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-12-01. Membership of Board—Meeting—Required Attendance of Certain Officials.) The board of county commissioners, at its regular meeting in July of each year, 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 and village 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 and village board of equalization, or his appointed representative, and each city and village 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 neces-

sarily 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, village or township in the same manner as other city, village or township expenses are paid.

§ 2. Repeal.) Section 57-12-07 of the North Dakota Century Code is hereby repealed.

Approved March 6, 1963.

CHAPTER 382

S. B. No. 67

(Forkner, Torgerson, Baeverstad, Meidinger, Harris, Longmire)

COUNTY ROAD TAX LEVY

AN ACT

To amend and reenact section 57-15-06.3 of the North Dakota Century Code to provide for a use of excess funds from county road construction programs, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-15-06.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.3. County Road Program Including Farm to Market and Federal Aid—Tax Levy.) The board of county commissioners of any county in this state may prepare a proposed county construction program of farm to market and federal aid roads on the county road system, setting forth a general description of the roads to be constructed, the location of bridges constituting a part of the program, the approximate total mileage, and the priority of construction. After approval of such program by the department and the bureau of public roads, the board may submit such program to the electors of the county with the question of levying a tax of not to exceed ten mills upon the net taxable assessed valuation of all property in the county for the completion of such program by matching, from the proceeds of such tax, federal funds available for federal aid, secondary and feeder roads, farm to market roads, and all roads as provided for under Public Law 769, 81st Congress, or future federal aid highway Acts of a similar character. If the majority of the electors voting on the question approved such program and levy, annually thereafter until such program is completed the board shall

levy a tax not in excess of ten mills, which levy shall not be subject to the county mill levy limitations, and the proceeds of such tax shall be used, except as herein provided, only for matching federal aid available for such program which shall be the official county road program. Any proceeds of a tax levy in excess of the amount needed to match federal funds in any year may be used by the county, at any time such proceeds may become available, for providing paved or any other type of road surfacing on roads included within the county road program for which the tax levy was originally made. Such paved or other type road surfacing may be used only after the question has been submitted to the electors of the county at a special election called for that purpose by the county commissioners. The use of such excess funds shall be approved by a majority of the electors voting at such special election.

§ 2. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 4, 1963.

CHAPTER 383

S. B. No. 189

(Baker, Brooks, Reichert, Longmire, Lips, Meidinger)

CITY AND VILLAGE TAX LEVY LIMITATION, EXCEPTIONS

AN ACT

To create subsection 6 of section 57-15-10 of the North Dakota Century Code, relating to exceptions to tax levy limitations in cities and villages, and providing such levy limitations shall not apply to taxes levied on property otherwise exempt from taxation, when levied to pay said property's proportionate share of the cost of fire protection services.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 6 of section 57-15-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. Taxes levied on property located within a municipality and otherwise exempt under the provisions of section 57-02-08 of the North Dakota Century Code, to pay such property's proportionate share of the cost of fire protection services maintained by the municipal corporation.

Approved March 18, 1963.

CHAPTER 384

S. B. No. 206

(Dahlund, Sanford, Kjos, Redlin, Torgerson, Forkner)
(Robinson, Wadeson)

TAX LEVY FOR MUNICIPAL ADVERTISING

AN ACT

To amend and reenact section 57-15-10.1 of the North Dakota Century Code, relating to the authority of counties and cities to levy a tax for advertising purposes.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-15-10.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-10.1. Counties and Cities May Levy for Certain Advertising Purposes.) The board of county commissioners of any county, or the governing body of any city or village, may annually levy a tax for the purpose of advertising the resources and opportunities in the county or city as the case may be and promoting the industrial development thereof. Such tax shall not exceed the amount produced by the levy of one-half mill on a dollar of the net taxable valuation of the county or city as the case may be.

When any county, city or village makes the levy provided for by this section, the expenditure of the fund shall be under the direction of the governing boards of such county, city or village. The levy of such one-half mill authorized by this section shall not be subject to other mill limitations prescribed by law.

Approved March 16, 1963.

CHAPTER 385

H. B. No. 750
(Anderson (Richland))

SCHOOL DISTRICT LEVY LIMITATIONS

AN ACT

To amend and reenact sections 57-15-14 of the North Dakota Century Code, relating to levy limitations in school districts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-15-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-14. Tax Levy Limitations in School Districts.) The aggregate amount levied by any school district, except the Fargo school district, shall not exceed such amount as will be produced by a levy of nineteen mills on the dollar of the net assessed valuation of the district, except that:

1. Any school district giving two years of standard high school work may levy taxes not to exceed twenty-four mills;
2. Any school district giving three years of standard high school work may levy taxes not to exceed twenty-seven mills;
3. Any school district giving four years of standard high school work may levy taxes not to exceed thirty-two mills; provided that there shall be no limitation upon the taxes which may be levied by any school district having a total population in excess of seven thousand five hundred according to the last federal decennial census if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted and approved by a majority of the electors voting at any regular or special election upon such question. In the event such election is held in a reorganized district it shall be conducted and approved or disapproved in the same manner and subject to the same conditions as provided in section 15-53-14 for elections for approval of school district reorganization plans. Thereafter, the question of authorizing or discontinuing such unlimited taxing authority in any school district shall be submitted to the electorate at the next regular election upon the filing with the school board of a petition containing the signatures of

not less than five percent of the electors of the district as determined by the number voting in such school district at the most recent regular school district election. The election shall be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing an unlimited mill levy;

4. Any school district maintaining an elementary school with two or more teachers may levy taxes not to exceed twenty-five mills on the dollar of its net taxable valuation, except that where high school work is offered by such school the limitations on the regular high school levy shall apply.

Approved March 21, 1963.

CHAPTER 386

H. B. No. 866
(Christensen (Ward))

PAYMENT OF TAX SALE CERTIFICATES

AN ACT

To amend and reenact section 57-20-24 of the North Dakota Century Code, authorizing the county auditor to pay the holder of a tax sale certificate upon its presentment without the approval of the county commissioners.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-20-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-24. Warrants To Be Drawn for Money Due Owners.)
Upon application of the party entitled thereto, and satisfactory proof that such claim is owing and that the person presenting the claim is the rightful holder thereof, the county auditor shall give to such party his warrant upon the county treasurer for payment for any money paid in for redemption of taxes which may be due to the purchaser at the sale, or his assignee. The certificate of sale shall be surrendered and canceled at the time of such payment, or if the redemption is for a part or undivided interest in the piece or parcel of land redeemed, the amount of such redemption and the proportion redeemed shall be endorsed on such certificate, which shall be a cancellation of such part of the certificate. If any holder of a tax

sale certificate fails to present such tax sale certificate to the county auditor for payment within a period of ten years after notice, the board of county commissioners shall transfer the amount due on such tax sale certificate into the general fund of the county.

Approved March 18, 1963.

CHAPTER 387

H. B. No. 814

(Olsen (Burke-Divide), Vogel, Wilkie, Stockman, Fossum, Glaspey)

ASSESSMENT OF NONRESIDENTS' PERSONAL PROPERTY

AN ACT

To amend and reenact section 57-22-21.1 of the North Dakota Century Code, relating to the immediate assessment of personal property taxes upon property belonging to residents but stored in another state or province, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-22-21.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-21.1. Immediate Assessment of Personal Property Taxes.) It shall be the duty of the assessor, upon discovery of any personal property in the county, belonging to transients or nonresidents, the taxes upon which cannot in his opinion be made a lien upon sufficient real property, or upon discovery of personal property within the county belonging to a resident of this state but normally located in another state or province, to secure the payment of such taxes, as provided in section 57-22-21, to immediately, and in any event not more than five days thereafter, make a report to the treasurer, setting forth the nature, kind, description and character of such property, in such a definite manner that the treasurer can identify the same, and the amount and assessed valuation of such property, where the same is located, and the name and address of the owner, claimant, or other person in possession of the same.

§ 2. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 6, 1963.

CHAPTER 388

S. B. No. 272
(Holand)

DEDUCTION OF PERSONAL PROPERTY TAXES

AN ACT

To amend and reenact sections 57-22-26 and 57-22-27 of the North Dakota Century Code, relating to deductions of personal property taxes from salaries and claims against public funds and who are subject to such deductions.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-22-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-26. Deduction of Personal Property Taxes from Salaries, Wages, and Claims Against Public Funds.) Any person who is required to issue warrants for, or to pay any salary or wages of any state officer or employee mentioned in section 57-22-27, or other compensation of any officer or employee of a political subdivision mentioned in section 57-22-27, or to pay any other claim against public funds of a political subdivision, shall ascertain from the tax records of the county wherein the services were performed, or the county wherein the person making claim for such compensation or other payment resides, whether such claimant is indebted to such county, or to any township, city, village, school district, park district, or any other municipality or political subdivision, for delinquent personal property taxes, and, if such indebtedness is found to exist, fifteen percent of the amount claimed for such salary or other compensation, or for such other payment, shall be withheld from each payment made until such personal property taxes, with interest and penalty, are fully satisfied, except that the total amount deducted and withheld shall never exceed double the amount of the total indebtedness. If, however, in any case the amount of the salary, wages, compensation, or other claim allowed for payment amounts to less than fifteen dollars, then the entire amount shall be withheld therefrom to apply upon such delinquent personal property taxes.

§ 2. **Amendment.)** Section 57-22-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-27. Who Are Subject to Deductions.) The provisions of section 57-22-26 shall apply to all elective and appointive

officials and their deputies, all courts, bureaus, boards, commissioners, departments, and committees, and the officials and employees of any of them, all agents, clerks, inspectors, employees, contractors, and each person, firm, partnership, or corporation receiving, claiming, or demanding any salaries or wages from the state of North Dakota or any of its departments, bureaus, boards, or commissions, or claiming or demanding any money from any county, township, or other political subdivision of the state, or from any city, village, school district, park district, or any other municipality in the state. It is intended hereby to insure the payment of personal property taxes by all persons, firms, or corporations receiving salaries or wages from the state of North Dakota or receiving public funds from any of its political subdivisions, or municipalities within the state.

Approved March 18, 1963.

CHAPTER 389

H. B. No. 876

(Ganser, Schaffer, Diehl, Vendsel, Davis (Dickey), Lindberg)
(Staven, Burvee, Vinje)

CONTRACTS FOR TAX COLLECTION

AN ACT

To amend and reenact section 57-22-29 of the North Dakota Century Code, authorizing the county commissioners to pay any elector of the county a salary for the collection of delinquent taxes in lieu of a percentage of the amount collected, and to contract with any person, firm, or corporation for the collection of taxes owed by any person not residing in North Dakota, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-22-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-29. Contract for Tax Collection.) In any county where for any reason personal property taxes that have been delinquent more than one year remain unpaid and uncanceled, whether put into judgment or not, the board of county commissioners may contract with the sheriff of the county, or with any elector of the county, to pay a percentage of such delinquent personal property taxes, not exceeding ten percent of the amount collected, as compensation for collecting the same, in lieu of, or in addition to, the compensation provided

by law for said sheriff. When a contract is made with any person other than the sheriff, the county commissioners may in their discretion pay any reasonable salary or expenses or a percentage of the tax collected, or combination thereof, and the contract may cover all or only certain taxing districts within the county, and contracts may be made with different collectors for different portions of the county. No collection fee shall be paid to the sheriff or any other collector for any moneys deducted from warrants under the provisions of section 57-22-26. In the event delinquent personal property taxes are owed by a person not residing in North Dakota the county commissioners may contract with any person, firm, or corporation, to pay a reasonable percentage of such delinquent taxes collected, as compensation for such collection. Such contractors shall execute either a personal or corporate surety bond conditioned upon satisfactory performance of the provisions of the contract and shall be in an amount and of a type approved by the county commissioners.

§ 2. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 6, 1963.

CHAPTER 390

H. B. No. 546

(Saugstad, Knudsen, Aamoth, Anderson (McHenry), Fossum)

(Hauf, Miller)

(From LRC Study)

TELEPHONE COMPANY TAXATION

AN ACT

To amend and reenact subsection 1 of section 57-34-01 and section 57-34-11 of the North Dakota Century Code to provide for the taxation of private or commercial telephone companies exclusively engaged in serving rural areas or rural areas and cities and villages with a population of less than five hundred persons, at the rate of fifty cents for each telephone instrument used by such company in furnishing telephone service, and relating to the tax exemptions granted to telephone companies.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 1 of section 57-34-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "A telephone company" means all mutual associations and cooperative organizations or corporations engaged in the business of furnishing communication by telephone, and shall further mean all other persons, firms, corporations, or other organizations which are engaged in the business of furnishing means of communication by telephone within this state exclusively to rural areas or to rural areas and cities and villages provided that each city or village served has a population of five hundred persons or less; and

§ 2. **Amendment.)** Section 57-34-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-11. Exemption from Other Taxation.) The taxes imposed by this chapter shall be in lieu of all real and personal property taxes levied by the state or any of its political subdivisions upon real or personal property directly used by any mutual or cooperative telephone company in its telephone operations.

Approved March 9, 1963.

CHAPTER 391

S. B. No. 103

(Wadeson, Solberg, George, Tuff)

CIGARETTE TAX RATE, ALLOCATION

AN ACT

To amend and reenact section 57-36-23 of the North Dakota Century Code, increasing the tax assessed against the sale of cigarettes and allocated to the incorporated cities and villages of the state by one-half mill on each cigarette.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-36-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-23. Separate and Additional Tax on the Sale of Cigarettes — Collection — Allocation of Revenue — Tax Avoidance Prohibited — Penalty.) There is hereby levied and assessed and there shall be collected by the proper officer and paid to the state treasurer, upon all cigarettes sold in this state, an additional tax, separate and apart from all other

taxes, of one mill on each such cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures.

All moneys received by the state treasurer from the proceeds of the tax provided by this section are hereby appropriated and shall be distributed on or before the thirtieth day of June and the thirty-first day of December of each year on a per capita basis to the incorporated cities and villages of the state, to be used by such incorporated cities and villages for such purposes as are now or may be hereafter authorized by law, the allocation to be based upon the population of each incorporated city and village according to the last official federal census, or the census taken in accordance with the provisions of chapter 40-02 in the case of a city or village incorporated subsequent to the last federal census, and warrants shall be drawn payable to the treasurers of such cities and villages.

No person, firm, or corporation shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying such tax thereon to the state treasurer.

Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor.

Approved March 5, 1963.

CHAPTER 392

H. B. No. 542

(Maragos, Brown, Saugstad, Knudsen, Fossum, Hauf, Backes)
(From LRC Study)

EXCISE TAX ON CIGARS AND TOBACCO

AN ACT

To create and enact sections 57-36-25 and 57-36-26 and to amend and reenact section 57-36-01 of the North Dakota Century Code, relating to the imposition of an excise tax on cigars and other tobacco products, except cigarettes and snuff, sold to retail dealers and providing for the manner of collection, the disposition of the proceeds thereof, and providing penalties.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-36-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-01. Definitions.) As used in this chapter, unless the context or subject matter otherwise requires:

1. "Person" shall mean any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed;
2. "Distributor" shall include any person engaged in the business of producing or manufacturing cigarettes, cigarette papers, cigars, snuff, or other tobacco products, or importing into this state cigarettes, cigarette papers, cigars, snuff, or other tobacco products, for the purpose of distribution and sale thereof to dealers and retailers;
3. "Licensed distributor" shall mean a distributor licensed under the provisions of this chapter;
4. "Dealer" shall include any person other than a distributor who is engaged in the business of selling cigarettes, cigarette papers, cigars, snuff, or other tobacco products;
5. "Licensed dealer" shall mean a dealer licensed under the provisions of this chapter;
6. "Sale" or "sell" shall apply to gifts, exchanges, and barter;
7. "Stamp" shall mean the stamps prepared by the tax commissioner as provided in section 57-36-08;
8. "Insignia" shall include or mean the impression or mark made on the cigarettes, cigarette papers, or snuff; or the package containing the same, approved by the tax commissioner, as provided in section 57-36-11;
9. "Cigar" means any roll of tobacco wrapped in tobacco; and
10. "Other tobacco products" means any product except cigarettes, cigarette papers, cigars, or snuff which is made up or composed of tobacco, in whole or in part.

§ 2.) Section 57-36-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-36-25. Cigars and Tobacco Products — Excise Tax on Wholesale Price — Reports — Collection — Allocation of Revenue.)

1. There is hereby levied and assessed upon all cigars and other tobacco products, sold in this state an excise tax at the rate of ten percent of the wholesale price, less discounts allowed and taken, at which such cigars and other tobacco products are purchased by retail dealers. The proceeds of such tax, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be

- remitted to the tax commissioner by the distributor on a calendar quarterly basis on or before the end of the month following the quarterly period for which paid.
2. Any person failing to file any prescribed forms of return or to pay any tax within the time required by this section shall be subject to a penalty of three percent of the amount of tax due, plus one percent of such tax for each month of delay or fraction thereof excepting the first month after such return was required to be filed or such tax became due. The tax commissioner, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.
 3. The retail sale of cigars or other tobacco products shall not be subject to any tax imposed by chapters 57-39 and 57-40.
 4. All moneys received by the tax commissioner under the provisions of this section shall be transmitted to the state treasurer at the end of each month and deposited in the state treasury to the credit of the general fund.
 5. All the provisions of this chapter, specifically including the penalties prescribed by subsections 1 and 2 of section 57-36-20, pertaining to the administration of the tax on cigarettes and snuff, not in conflict with the provisions of this section, shall govern the administration of the taxes levied in this section.

§ 3.) Section 57-36-26 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-36-26. Cigars and Tobacco Products—Excise Tax Payable by Dealers—Reports—Collection—Allocation of Revenue.)

1. There is hereby levied and assessed upon all cigars and other tobacco products, purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rate of ten percent of the wholesale price at the time such products were brought into this state. The proceeds of such tax, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the dealer on a calendar quarterly basis on or before the end of the month following the quarterly period for which it is paid.
2. If cigars or other tobacco products have been subjected already to a tax by any other state in respect to their sale in an amount less than the tax imposed by this

section, the provisions of this section shall apply, but at a rate measured by the difference only between the rate fixed in this section and the rate by which the previous tax upon the sale was computed. If the tax imposed in such other state is ten percent of the wholesale price or more, then no tax shall be due on such article. The provisions of this subsection shall apply only if such other state allows a tax credit with respect to the excise tax on cigars and other tobacco products imposed by this state which is substantially similar in effect to the credit allowed by this subsection.

3. Any person failing to file any prescribed forms of return or to pay any tax within the time required by this section shall be subject to a penalty of three percent of the amount of tax due, plus one percent of such tax for each month of delay or fraction thereof excepting the first month after such return was required to be filed or such tax became due. The tax commissioner, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.
4. The retail sale of cigars or other tobacco products shall not be subject to any tax imposed by chapters 57-39 and 57-40.
5. All moneys received by the tax commissioner under the provisions of this section shall be transmitted to the state treasurer at the end of each month and deposited in the state treasury to the credit of the general fund.
6. All the provisions of this chapter, specifically including the penalties prescribed by subsections 1 and 2 of section 57-36-20, pertaining to the administration of the tax on cigarettes and snuff, not in conflict with the provisions of this section, shall govern the administration of the taxes levied in this section.

Approved March 14, 1963.

CHAPTER 393

S. B. No. 324
(Chesrown)

INCOME TAX, DEFINITION

AN ACT

To amend and reenact subsection 21 of section 57-38-01 of the North Dakota Century Code Supplement, relating to definitions provided in the income tax law; and to repeal subsection 6 of section 57-38-15.3 of the North Dakota Century Code and subdivision (c) of subsection 8 of section 57-38-18 of the North Dakota Century Code Supplement, relating to definitions provided in the income tax law.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 21 of section 57-38-01 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

21. "Federal Internal Revenue Code of 1954, as amended", "United States Internal Revenue Code of 1954, as amended" and "Internal Revenue Code of 1954, as amended", mean the United States Internal Revenue Code of 1954, as amended to and including December 31, 1962.

§ 2. Repeal.) Subsection 6 of section 57-38-15.3 of the North Dakota Century Code and subdivision (c) of subsection 8 of section 57-38-18 of the North Dakota Century Code Supplement are hereby repealed.

Approved March 21, 1963.

CHAPTER 394

S. B. No. 200

(Mutch, Saumur, Longmire)

ALLOCATION AND APPORTIONMENT OF
INDIVIDUAL INCOME

AN ACT

To amend and reenact subsection 2 of section 57-38-04 of the North Dakota Century Code Supplement, relating to the allocation and apportionment of income of individuals.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 2 of section 57-38-04 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

2. a. Income received from personal or professional services performed by residents of this state, regardless of where such services are performed, and income received by residents of this state from intangible personal property shall be assigned to this state. If a tax is paid to another state or territory of the United States or to the District of Columbia on any income assigned to this state under this subsection, a credit for any tax so paid may be deducted from the tax assessed under this chapter if written proof of such payment is furnished to the tax commissioner; provided, that this credit for such tax shall not exceed the difference between (a) the amount of tax that would be due under this chapter if all of the taxpayer's income had been derived from sources within North Dakota, and (b) the amount of tax that would be due under this chapter if the income from personal or professional services performed outside of North Dakota, together with any federal income taxes paid thereon, were excluded from the computation of the North Dakota income tax;
- b. Notwithstanding any other provision of this chapter, the compensation received from services performed within this state by an individual who (1) performs services for a common carrier engaged in interstate transportation and (2) who resides and has his place of abode to which he customarily returns at least once a month in another state shall be excluded from income to the extent that such income is subject to

an income tax imposed by the state of his residence; provided that such state allows a similar exclusion of such compensation received by residents of North Dakota for similar services performed therein, or a credit against the tax imposed on the income of residents of this state that is substantially similar in effect. For the purposes of this subdivision the words "an individual who performs services for a common carrier engaged in interstate transportation" shall be limited to an individual who performs such services for a common carrier only during the course of making regular "runs" into North Dakota or from within North Dakota to outside North Dakota, or both, on the transportation system of the common carrier.

Approved March 21, 1963.

CHAPTER 395

S. B. No. 360
(Delayed Bills Committee)
(Wartner)

INDIVIDUAL INCOME TAX RATE

AN ACT

To amend and reenact section 57-38-29 of the North Dakota Century Code, relating to the rate of tax on individuals for state income tax purposes, and providing an effective date.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-38-29 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

57-38-29. Rate of Tax on Individuals.) A tax is hereby imposed upon every individual, to be levied, collected, and paid annually with respect to the taxable income of such individual as defined in this chapter, computed at the following rates:

1. On taxable income not in excess of one thousand dollars, a tax of one percent;
2. On taxable income in excess of one thousand dollars and not in excess of two thousand dollars, a tax of two percent;

3. On taxable income in excess of two thousand dollars and not in excess of three thousand dollars, a tax of three percent;
4. On taxable income in excess of three thousand dollars and not in excess of four thousand dollars, a tax of four percent;
5. On taxable income in excess of four thousand dollars and not in excess of five thousand dollars, a tax of five percent;
6. On taxable income in excess of five thousand dollars and not in excess of six thousand dollars, a tax of six percent;
7. On taxable income in excess of six thousand dollars and not in excess of seven thousand dollars, a tax of seven percent;
8. On taxable income in excess of seven thousand dollars and not in excess of eight thousand dollars, a tax of eight percent;
9. On taxable income in excess of eight thousand dollars and not in excess of nine thousand dollars, a tax of nine percent;
10. On taxable income in excess of nine thousand dollars, and not in excess of fifteen thousand dollars, a tax of ten percent;
11. On taxable income in excess of fifteen thousand dollars, a tax of eleven percent.

Provided, however, that the tax liability hereunder shall in no case be less than five dollars for any individual or fiduciary income tax return required to be filed under the provisions of this chapter. In the event of an overpayment of tax by any individual or fiduciary, no refund in an amount of less than two dollars shall be made by the tax commissioner.

§ 2. Effective Date.) The provisions of this Act shall be effective with respect to income earned in income years commencing after December 31, 1962.

Filed March 25, 1963.

Not approved or disapproved by Governor.

CHAPTER 396

S. B. No. 39

(Holand, Baeverstad, Luick, Reichert)

(From LRC Study)

WITHHOLDING OF INCOME TAXES

AN ACT

Creating and enacting sections 57-38-58, 57-38-59, 57-38-60, 57-38-61, 57-38-62, 57-38-63, and 57-38-64 of the North Dakota Century Code, relating to withholding of income taxes from wages of employees, declaration and payment of estimated income, amendment of declaration, and providing an effective date and penalties.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) Section 57-38-58 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-58. Definitions.) As used in sections 57-38-59 through 57-38-64 unless the context or subject matter otherwise requires:

1. "Employer" means a person or organization transacting business in or deriving any income from sources within the state of North Dakota for whom an individual performs or performed any services, of whatever nature, and who has control of the payment of wages for such services, or an officer, agent or employee of the person or organization having control of the payment of wages. It includes any officer or department of state or federal governments, or any political subdivision or agency thereof;
2. "Employee" means and includes every individual performing services for an employer, the performance of which constitutes, establishes and determines the relationship between the parties as that of employer and employee, and includes officers of corporations, individuals, including elected officials, performing services for the United States Government or any agency or instrumentality thereof, or the state of North Dakota or any county, city, municipality or political subdivision thereof;
3. "Wages" means "wages" as defined in the Internal Revenue Code of 1954, as amended, for the purpose of collection of income tax at the source, on wages; and
4. "Nonresident" during the period beginning August 1, 1963, and ending September 30, 1965 includes any person

who did not file an individual income tax return with the state tax commissioner for the preceding year and who has not continuously maintained a domicile in North Dakota for a period of one full calendar year from January first to December thirty-first, and such person shall be deemed a nonresident of North Dakota until he has filed an individual income tax return with the state tax commissioner for the preceding year and until he has continuously maintained a domicile in North Dakota for a full calendar year. After September 30, 1965, the term "nonresident" as used in subsection 1 of section 57-38-59, subsections 1, 2, and 3 of section 57-38-60, and in section 57-38-62 shall mean any employee as defined in subsection 2 of this section.

§ 2.) Section 57-38-59 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-59. Withholding from Wages of Nonresident Employees—Penalty.) 1. Every employer making payment of wages to all nonresident employees shall deduct and withhold from wages such percentage or percentages as determined by the tax commissioner, of the total amount required to be deducted by an employer from wages of an employee under the provisions of the Internal Revenue Code of 1954, as amended; in addition, any employer may elect to deduct and withhold prior to October 1, 1965, the amount of tax as prescribed herein from the wages of any employee. The amount of tax withheld shall be computed without regard to any other amount required to be withheld thereunder, but the tax withheld shall as closely as possible pay any tax liability imposed by this chapter.

2. In the event that the tax deducted and withheld under the provisions of subsection 1 of this section should prove to be disproportionate to the tax liability, the tax commissioner may adjust the percentage which, when withheld, will, as closely as may be possible, pay the income tax liability imposed by this chapter.

3. The tax commissioner may, in lieu of the requirement above for deducting and withholding tax based upon a percentage of federal income tax withheld, adopt by regulation tax tables which, when the tax provided for in the tables is withheld, will, as closely as possible, pay the income tax liability imposed by this chapter. When adopted by the tax commissioner said tables shall be followed by every employer required to deduct and withhold any tax imposed by this chapter.

4. Every employer shall deduct and withhold from every employee's wages the amounts required to be deducted and

withheld from a nonresident employee's wages until such time as the employee has filed with his employer a certificate under oath, in such form as the tax commissioner shall prescribe, that such employee entitled to wages is a resident of the state of North Dakota as defined for withholding purposes. Any employee submitting a falsified statement shall be guilty of perjury and punished in accordance with chapter 12-14.

Employers shall be required to make the certificates of residence available to the tax commissioner upon request. The provisions of this subsection shall be effective for the period beginning August 1, 1963, and ending September 30, 1965, both dates inclusive.

5. On or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which shall in no event exceed the number to which he is entitled. The certificate shall be in such form and shall contain such information as the tax commissioner shall prescribe. The furnishing of such certificate or a new certificate if the exemption status of the employee changes, the time for furnishing the certificate and the time it shall take effect shall be governed by the similar provisions of the United States Internal Revenue Code of 1954, as amended.

§ 3.) Section 57-38-60 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-60. Employer's Returns and Remittances.) 1. Every employer shall, on or before the last day of April, July, October, and January, pay over to the tax commissioner the amount required to be deducted and withheld from wages paid to all nonresident employees during the preceding calendar quarter under the provisions of section 57-38-59; provided that the tax commissioner may alter the time or period for making reports and payment when in his opinion, the tax is in jeopardy, or may prescribe the use of any other time or period as will facilitate the collection and payment of the tax by the employer.

2. Every employer shall file a return on forms prescribed by the tax commissioner with each payment made to the tax commissioner under the provisions of this section which shall show the total amount of wages paid to his nonresident employees, the amount of federal income tax deducted and withheld during the period covered by the return, the amount of tax imposed under the provisions of this chapter that was deducted and withheld during the period covered by the

return, and such other information as the tax commissioner may require.

3. Every employer shall make an annual return to the tax commissioner on forms provided and approved by him, summarizing the total compensation paid, the federal income tax deducted and withheld and the state tax deducted and withheld for each nonresident employee during the calendar year and shall file the same with the tax commissioner on or before the thirty-first day of January of the year following that for which the report is made. Every employer shall also, in accordance with such regulations as may be prescribed by the tax commissioner, provide each nonresident employee from whom state income tax has been withheld, with a statement of the amounts of total compensation paid and the amounts deducted and withheld for such employee during the preceding calendar year in accordance with the provisions of section 57-38-59, and said statement shall be made available to the employee on or before the thirty-first day of January of the year following that for which the report is made.

4. The employer shall be liable to the tax commissioner for the payment of the tax required to be deducted and withheld under section 57-38-59, and the employee shall not thereafter be liable for the amount of any such payment, nor shall the employer be liable to any person or to any employee for the amount of any such payment. For the purpose of making penalty provisions of this chapter applicable, any amount deducted or required to be deducted and remitted to the tax commissioner under this section shall be considered to be the tax of the employer and with respect to such amounts he shall be considered the taxpayer.

5. Every employer who deducts and withholds any amounts under the provisions of section 57-38-59 shall hold the same in trust for the state of North Dakota for the payment thereof to the tax commissioner in the manner and at the time provided for in this section, and the state of North Dakota shall have a lien on the property of the employer to secure the payment of any amounts withheld and not remitted as provided herein, which lien shall attach at the time prescribed and to the property described in section 57-38-48 and shall be subject to the provisions of sections 57-38-49, 57-38-50, and 57-38-51.

6. As a condition precedent to the doing of business in the state of North Dakota, an employer may be required by the tax commissioner to either make a cash deposit or post with him a bond or undertaking executed by a surety company authorized to do business in the state of North Dakota in such amount as is reasonably calculated to insure the payment

to the state of taxes deducted and withheld from wages, but not to exceed five thousand dollars.

§ 4.) Section 57-38-61 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-61. Provisions of Chapter Applicable.) The provisions of sections 57-38-34, 57-38-38 through 57-38-40, 57-38-43 through 57-38-47, and 57-38-52 through 57-38-57 shall insofar as consistent therewith, govern the administration of sections 57-38-58, 57-38-59, and 57-38-60. The term "employer" as used in sections 57-38-58, 57-38-59, and 57-38-60 shall also mean "taxpayer" as used in this chapter. No refund shall be made by the tax commissioner to a taxpayer unless the amount to be refunded shall exceed three dollars. In addition, the authority of the tax commissioner to prescribe rules and regulations shall include the authority to make such agreements with the United States Government or any of its agencies as are necessary to provide for the deducting and withholding of tax from the wages of federal employees in the state of North Dakota.

§ 5.) Section 57-38-62 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-62. Declaration of Estimated Income.) All nonresident taxpayers shall, at the time prescribed in this chapter, make a declaration of his estimated tax for the taxable year, containing such information as the tax commissioner may prescribe by rules and regulations, if his estimated tax on taxable income from sources other than wages, salaries, bonuses or other emoluments can reasonably be expected to exceed forty dollars.

§ 6.) Section 57-38-63 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-63. Payment of Estimated Tax.) No later than April fifteenth of the taxable year the taxpayer shall file the declaration of estimated tax and make payment of no less than one-quarter of the amount of tax due thereon with the tax commissioner. If at this time a payment of at least one-quarter but less than the entire amount of tax due is made by the taxpayer the balance of the tax shall then be paid in three equal installments on the fifteenth days of the following months of June, September, and January.

§ 7.) Section 57-38-64 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-64. Amendment of Declaration.) An individual may amend a declaration of estimated income and make the

adjusted payments of tax due thereon under the regulations of the tax commissioner.

§ 8. Effective Date.) The provisions of sections 57-38-59, 57-38-62, and 57-38-63 shall become effective for wages paid and income received after July 31, 1963 as to nonresident employees and nonresident taxpayers and shall become effective as to all employees and taxpayers as to wages paid and income received after September 30, 1965. Nonresident taxpayers shall on or before September 15, 1963, file the declaration of estimated tax and shall make payment of no less than one-sixth of the tax due thereon with the state tax commissioner; the balance of any tax due shall be paid on or before January 15, 1964.

Filed March 25, 1963.

Not approved or disapproved by Governor.

CHAPTER 397

S. B. No. 50

(Holand, Luick, Reichert)

(From LRC Study)

ADJUSTED TAX ON INDIVIDUAL INCOME

AN ACT

To create and enact section 57-38-65 of the North Dakota Century Code to provide for the levying and collection of an adjusted tax on individual income, and an effective date.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) Section 57-38-65 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-65. Adjusted Income Tax on Individual Income.)

Each individual, estate, or trust required to file an income tax return by this chapter shall pay an additional tax of one percent of the difference between:

1. The amount of his net income as defined in section 57-38-21 and
2. The total of his personal exemptions as defined in section 57-38-26 or 57-38-27,

less a credit to be deducted from such adjusted tax equal to twenty percent of all real estate taxes and personal property taxes which first become due and payable during the income

year and were actually paid to this state or its political subdivisions. The revenue collected by the tax commissioner as additional tax shall be deposited in the general fund not later than the last day of each month. The tax imposed by this section shall be supplemental to the tax imposed by this chapter and all provisions within this chapter not inconsistent with the provisions of this section, including but not limited to withholding, filing of returns, payments and penalties, shall apply to the tax imposed by this section. The provisions of this Act shall apply to all income years commencing after December 31, 1962.

Filed March 25, 1963.

Not approved or disapproved by Governor.

CHAPTER 398

H. B. No. 756

(Fitch, Leahy, Baldwin, Aamoth, Stockman)

SALES TAX DEFINITIONS

AN ACT

To amend and reenact section 57-39-01 of the North Dakota Century Code, relating to the definitions of a retail sale or sale at retail under the sales tax law.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-39-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-39-01. Definitions.)** The following words, terms and phrases, when used in this chapter, have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Person" includes any individual, firm, partnership, joint adventure, association, corporation, estate, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number;

2. "Sales" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration, and includes sales of subscriptions to magazines and other periodicals

***Note:** Subsections 2, 3, and 5 of section 57-39-01 were also amended by section 1, chapter 399, 1963 S.L.

regardless of whether or not they are in existence at the time of the sale of any subscription; provided that the words "magazines and other periodicals" as used herein shall not include newspapers nor shall they include magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues;

3. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property and the sale of steam, gas, electricity, water, and communication service to retail consumers or users, and includes the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding, manufacturing, producing or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to other real or personal property otherwise exempt from the sales tax shall be considered as a sale of tangible personal property for a purpose other than for processing. The delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated outside of North Dakota shall not be considered a taxable sale;

4. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect;

5. "Retailer" includes every person engaged in the business of selling, including leasing or renting, tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, electricity, water and communication services, and tickets or admission to places of amusement and athletic events as provided in this chapter, and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of

such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided; and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in manner provided in this chapter;

6. "Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided, however, that on all sales of retailers, valued in money, when such sales are made under conditional sales contract, or under other forms of sale wherein the payment of the principal sum thereunder be extended over a period longer than sixty days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted for, for the purpose of imposition of tax imposed by this chapter, as has actually been received in cash by the retailer during each quarterly period as defined herein. "Gross receipts" shall also mean, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only such tangible personal property the transfer of title to which has not been subjected to a retail sales tax in this state. "Gross receipts" shall also mean, with respect to subscriptions to magazines and other periodicals, the amount of consideration, valued in money, whether received in money or otherwise, received from the sale of such subscriptions regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription;

7. "Relief agency" means the state, any county, city and county, city or district thereof, or an agency engaged in actual relief work;

8. "Commissioner" means the tax commissioner of the state of North Dakota; and

9. "Local governmental unit" means incorporated cities, towns and villages, counties, school districts and townships.

Approved March 21, 1963.

CHAPTER 399

H. B. No. 559

(Anderson (McHenry), Boutilier, Hauf, Frank, Tescher, Mosal)
(Wilkie, Bier)

SALES TAX RATE AND BASE

AN ACT

To amend and reenact subsections 2, 3, and 5 of section 57-39-01, sections 57-40-10, 57-39-02, 57-39-06, 57-40-02, and 57-40.1-02 of the North Dakota Century Code, relating to the definition of the words "sale", "retail sale", and "retailer" and relating to the imposition of a sales tax and use taxes upon sales of certain tangible personal property and services during the 1963-1965 biennium.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Subsections 2, 3, and 5 of section 57-39-01* of the North Dakota Century Code and Supplement thereto are hereby amended and reenacted to read as follows:

2. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration, and includes the furnishing of services relating to personal property, the furnishing or service of steam, gas, electricity, water, or communication, the furnishing of hotel, motel, or tourist court accommodations, the furnishing of tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin, and sales of subscriptions to magazines and other periodicals regardless of whether or not such magazine or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription; provided that the words "magazines and other periodicals" as used herein shall not include newspapers nor shall they include magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues;
3. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, to a consumer or to any person

*Note: Section 57-39-01 was also amended by chapter 398 of the 1963 Session Laws.

for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, electricity, water, and communication service to retail consumers or users; the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, services relating to personal property, tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding, manufacturing, producing or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to other real or personal property otherwise exempt from the sales tax shall be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated outside of North Dakota shall not be considered a taxable sale;

5. "Retailer" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, electricity, water and communication services, or tickets or admission to places of amusement, entertainment and athletic events including the playing of any machine for amusement or entertainment in response to the use of a coin, or services relating to personal property, or magazines, or other periodicals; and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein

provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas, electricity, water, or communication service to members of the public in its proprietary capacity;

§ 2. Amendment.) Section 57-39-02 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

57-39-02. Tax Imposed.) Except as otherwise expressly provided in this chapter, there is hereby imposed, beginning the first day of July, 1963, and ending the first day of July, 1965, a tax of two and one-quarter percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as hereinafter provided in this section, within the state of North Dakota of the following to consumers or users:

1. Tangible personal property, consisting of goods, wares, or merchandise;
2. The furnishing or service of steam, gas, electricity, water, or communication services;
3. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment or athletic activity, and including the playing of any machine for amusement or entertainment in response to the use of a coin;
4. Magazines and other periodicals, including subscriptions thereto;
5. The leasing or renting of hotel, motel, or tourist court accommodations for periods of less than thirty consecutive calendar days or one month;
6. Services furnished in repairing, altering, restoring, or cleaning any tangible personal property provided that this subsection shall not apply to retailers who furnish such services to agricultural producers with respect to agricultural products; and
7. The leasing or renting of tangible personal property the transfer of title to which has not been subjected

to a retail sales tax under this chapter or a use tax under the provisions of chapter 57-40 or chapter 57-40.1.

§ 3. Amendment.) Section 57-39-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-06. Tax To Be Added to Purchase Price and Be a Debt.) Retailers shall add the tax imposed under this chapter, or the average equivalent thereof, to the sales price or charge and when added such taxes shall constitute a part of such price or charge, shall be a debt from the consumer or user to the retailer until paid, and shall be recoverable at law in the same manner as other debts.

In adding such tax to the price or charge, retailers shall adopt the following bracket system for the application of the tax:

\$0.01 to \$0.19.....	no tax
.20 to .59.....	1¢ tax
.60 to .99.....	2¢ tax
1.00 to 1.49.....	3¢ tax
1.50 to 1.99.....	4¢ tax
2.00 to 2.49.....	5¢ tax
2.50 to 2.99.....	6¢ tax
3.00 to 3.49.....	7¢ tax
3.50 to 3.99.....	8¢ tax

An additional tax of 1¢ for each 50¢, or fraction thereof, over \$3.99 except that for each full \$4.00 there shall be collected a tax of 9¢.

§ 4. Amendment.) Section 57-40-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-40-02. Tax Imposed.)** An excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of two and one-quarter percent of the purchase price of such property. Except as limited by section 57-40-10, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of two and one-quarter percent of the fair market value of such property at the time it was brought into this state.

§ 5. Amendment.) Section 57-40-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***Note:** Section 57-40-02 was also amended by section 5 of chapter 400 and by chapter 404 of the 1963 Session Laws.

57-40-10. Articles Taxed in Other States.) If any article or tangible personal property has been subjected already to a tax by any other state in respect to its sale or use in an amount less than the tax imposed by this chapter, the provisions of this chapter shall apply, but at a rate measured by the difference only between the rate fixed in this chapter and the rate by which the previous tax upon the sale or use was computed. If the tax imposed in such other state is the same or more, then no tax shall be due on such article. The provisions of this section shall apply only if such other state allows a tax credit with respect to the retail sales and use taxes imposed by this state which is substantially similar in effect to the credit allowed by this section.

§ 6. Amendment.) Section 57-40.1-02 of the North Dakota Dakota Century Code as created by House Bill No. 740 (chapter 405) of the Thirty-eighth Legislative Assembly is hereby amended and reenacted to read as follows:

57-40.1-02. Tax Imposed.) There is hereby imposed an excise tax of two and one-quarter percent of the purchase price of any motor vehicle purchased or acquired for use on the streets and highways of this state and required to be registered under the laws of this state, and a like rate of tax upon the purchase price of any mobile home purchased or acquired for use in this state.

Filed March 25, 1963.

Not approved or disapproved by Governor.

CHAPTER 400

S. B. No. 346
(Chesrown)

SALES AND USE TAX ADMINISTRATION

AN ACT

To amend and reenact section 57-39-08 and subsection 7 of section 57-39-12 and to create and enact a subsection to section 57-39-10, of the North Dakota Century Code, relating to administration of the retail sales tax law; to amend and reenact subsection 5 of section 57-40-01, section 57-40-02, subsection 1 of section 57-40-06, and section 57-40-08 of the North Dakota Century Code, relating to administration of the use tax law; and to repeal subsection 10 of section 57-39-11 of the North Dakota Century Code Supplement.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-39-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-08. Records Required.) Every retailer required to make a report and pay any tax under this chapter, shall preserve such records of the gross proceeds of sale as the commissioner may require and every retailer shall preserve for a period of six years all invoices and other records of goods, wares, or merchandise purchased for resale. All such books, invoices, and other records shall be open to examination at any time by the commissioner or any of his duly authorized agents.

§ 2. Amendment.) Section 57-39-10 of the North Dakota Century Code is hereby amended by creating and enacting a new subsection to read as follows:

Remittances on account of tax due under this chapter shall not be deemed or considered payment thereof unless or until the commissioner shall have collected or received the amount due for such tax in cash or equivalent credit.

§ 3. Amendment.) Subsection 7 of section 57-39-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. All permits in effect at the time this chapter takes effect are hereby continued and shall remain in full force and effect unless revoked as herein provided; provided that the commissioner may issue a new form of permit to replace, at no charge to the permit holders, all permits previously granted and issued that have not been revoked or surrendered.

§ 4. Amendment.) Subsection 5 of section 57-40-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "Purchase price" means the total amount for which tangible personal property is sold, leased, or rented, valued in money, whether paid in money or otherwise, but cash discounts allowed and taken on sales shall not be included;

§ 5. Amendment.) Section 57-40-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-40-02. Tax Imposed.)** An excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of two percent of the purchase price of such property. Except as limited by section 57-40-10, an excise tax is imposed on the storage, use or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of two percent of the fair market value of such property at the time it was brought into this state; provided that in the case of tangible personal property purchased at retail for fabricating or manufacturing into items to be incorporated into real estate by the purchaser at retail, fair market value shall mean the purchase price of materials used in fabricating or manufacturing such items.

§ 6. Amendment.) Subsection 1** of section 57-40-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Every retailer maintaining a place of business in this state and making sales of tangible personal property for use in this state, not exempted under the provisions of section 57-40-03, before making any sales shall obtain a permit from the commissioner to collect the tax imposed by this chapter, which permit shall be subject to all of the requirements, conditions and fees for its issuance that apply with respect to a retail sales tax permit, and at the time of making such sales, whether within or without the state, shall except as otherwise provided in subsection 1 of section 57-40-05 collect the tax imposed by this chapter from the purchaser, and give to the purchaser a receipt therefor in the manner

***Note:** Section 57-40-02 was also amended by section 4 of chapter 399 and by chapter 404 of the 1963 S.L.

****Note:** Subsection 1 of section 57-40-06 was also amended by section 15, chapter 304, 1963 S.L. The wording of chapter 304 is identical to the wording contained in this chapter.

and form prescribed by the tax commissioner, if the commissioner, by regulation, shall require such receipt. Each such retailer shall list with the tax commissioner the name and address of all his agents operating in this state, and the location of each of his distribution or sales houses or offices or other places of business in this state;

§ 7. Amendment.) Section 57-40-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40-08. Records Required.) Each retailer required or authorized to collect the tax imposed by section 57-40-02, and each person using in this state tangible personal property purchased on or after July first 1939, shall keep such records, receipts, invoices, and other pertinent papers as the tax commissioner shall require and each such retailer or person shall preserve for a period of six years all invoices and other records of such tangible personal property purchased for resale or for use. The commissioner, or any duly authorized agent, may examine the books, papers, records, and equipment of any person who sells tangible personal property or who is liable for such tax, and may investigate the character of the business of any such person to verify the accuracy of any return made, or if no return was made, to ascertain and determine the amount due. Any such books, papers, and records shall be made available within this state for such examination upon reasonable notice if the tax commissioner shall make an order to that effect.

§ 8. Repeal.) Subsection 10 of section 57-39-11 of the North Dakota Century Code Supplement is hereby repealed.

Approved March 21, 1963.

CHAPTER 401

H. B. No. 857
(Lundene, Vogel)

TRANSIENT MERCHANTS' SALES TAX PERMITS

AN ACT

To amend and reenact subsection 3 of section 57-39-12 of the North Dakota Century Code, relating to the issuance of retail sales tax permits, the display of them, and, in the case of a transient merchant, the showing of the permit by the transient merchant before soliciting a sale, or offering to sell, any goods, wares or merchandise.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Subsection 3 of section 57-39-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Upon the payment of the permit fee, or fees herein required, the commissioner shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued. Any transient merchant who is in the business of soliciting or making sales at retail to consumers shall, before soliciting such a sale from a consumer, exhibit to the consumer or prospective consumer the retail sales tax permit required by this section; for the purposes of this sentence the term "transient merchant" shall include any person, individual, copartnership, or corporation, either as principal or agent, who solicits, engages in, does, or transacts any temporary or transient business in this state, either in one locality, or in traveling from place to place in this state, selling goods, wares, and merchandise, who does not intend to become and does not become a permanent merchant of such place, and who, for the purpose of carrying on such business, hires, leases, occupies, or uses, a building, structure, lot, tract, railroad car, motor vehicle, or display case or sample case of any kind for the exhibition and sale of such goods, wares, and merchandise.

Approved March 4, 1963.

CHAPTER 402

H. B. No. 544

(Brown, Saugstad, Knudsen, Aamoth)

(Anderson (McHenry), Fossum, Hauf)

(From LRC Study)

UNUSED SALES TAX PERMITS

AN ACT

To amend and reenact subsection 5 of section 57-39-12 of the North Dakota Century Code, relating to the revocation of retail sales tax permits.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 5 of section 57-39-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Whenever the holder of a permit fails to comply with any of the provisions of this chapter or any rules or regulations prescribed by the commissioner and adopted under this chapter, or whenever the holder of a permit shall file returns showing no tax due for four consecutive quarters, the commissioner upon hearing after giving ten days' notice of the time and place of the hearing to show cause why his permit should not be revoked, may revoke the permit. The commissioner also shall have the power to restore licenses after such revocation;

Approved February 18, 1963.

CHAPTER 403

H. B. No. 543

(Brown, Saugstad, Knudsen, Aamoth, Fossum)

(Anderson (McHenry), Hauf, Backes)

(From LRC Study)

STATUTE OF LIMITATIONS ON SALES TAX ACTIONS

AN ACT

To amend and reenact subsection 2 of section 57-39-15 and subsection 1 of section 57-39-20 of the North Dakota Century Code, relating to time limitations in which a court proceeding may be commenced for the collection of unpaid sales taxes, and to the employment of sales and use tax auditors by the tax commissioner.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 2 of section 57-39-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If any tax imposed by this chapter or by chapter 57-40 remains unpaid, a proceeding in court for the collection of such tax may be begun at any time within six years after the due date of such tax; provided that no limitation of time to collect such tax shall apply if the failure to pay such tax was due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax. The limitations provided by this amendment in regard to a commencement of court proceedings shall not apply to any assessment of tax made by the tax commissioner prior to July 1, 1963.

§ 2. Amendment.) Subsection 1 of section 57-39-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The commissioner may appoint such agents, auditors, clerks and employees as he may deem necessary, fix their salaries and compensation and prescribe their duties and powers, and may remove such persons so appointed by him. Each auditor appointed by the commissioner shall have had at least three years experience, or the educational equivalent thereof, in the auditing and checking of books of account;

Approved February 18, 1963.

CHAPTER 404

H. B. No. 815

(Dornacker, Haugland, Knudsen, Gackle, Haugen)

USE TAX IMPOSITION

AN ACT

To amend and reenact section 57-40-02 of the North Dakota Century Code, relating to the imposition of an excise tax.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) Section 57-40-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-40-02. Tax Imposed.)** An excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of two percent of the purchase price of such property. Except as limited by section 57-40-10, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of two percent of the fair market value of such property at the time it was brought into this state; provided that in the case of tangible personal property purchased at retail for fabricating or manufacturing into items to be incorporated into real estate by the purchaser at retail, fair market value shall mean the purchase price of materials used in fabricating or manufacturing such items. Notwithstanding any exemption provision or other provision of law, an excise tax is hereby imposed on the storage, use, or consumption in this state of all tangible personal property purchased at retail for storage, use, or consumption in this state at the rate of two percent of the purchase price of such property if such property was imported from a foreign country by the retailer thereof; provided, however, that such tax shall not apply to the use, storage or consumption of such property by the United States or any of its instrumentalities or by the state of North Dakota or any of its departments, institutions or political subdivisions or railway cars and locomotives used in interstate commerce and tangible personal property which becomes a component part thereof.

Approved March 21, 1963.

***Note:** Section 57-40-02 was also amended by section 5 of chapter 400 and by section 4, chapter 399, of the 1963 S.L.

CHAPTER 405

H. B. No. 740
(Hauf, Berg)

MOTOR VEHICLE USE TAX

AN ACT

To create and enact chapter 57-40.1 of the North Dakota Century Code, relating to the imposition of an excise tax on motor vehicles and mobile homes, providing for the administration of the provisions of said chapter and the collection and distribution of revenues derived therefrom, and providing for penalties for violation of the provisions thereof; to amend and reenact the following provisions of the North Dakota Century Code: subsection 8 of section 39-01-01 defining semitrailer, subdivision j of subsection 2 of section 39-04-18 and subsection 3 of section 39-04-19, relating to exemptions for motor vehicles of certain disabled veterans, section 39-04-38, relating to exemption of certain vehicles from personal property taxes, subsection 6 of section 39-05-01, as amended, defining motor vehicle for title registration purposes, section 39-05-12, as amended, relating to carrying of registration card, inspection thereof, and penalty for violation thereof, and subsection 4 of section 57-40-03, relating to exemption of certain vehicles from use tax; and to repeal subsection 9 of section 57-40-01 and sections 57-40-12, 57-40-13 and 57-40-14 of the North Dakota Century Code.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) Chapter 57-40.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-40.1-01. Definitions.) The following words, terms and phrases, when used in this chapter, have the meaning ascribed to them in this section, except where the context and subject matter clearly indicate a different meaning:

1. "Person" shall include any natural person, firm, co-partnership, association, or corporation;
2. "Motor vehicle registrar" shall mean the registrar of motor vehicles who is the officer in charge of the motor vehicle department of this state;
3. "Vehicle" shall include every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or animal power or used exclusively upon stationary rails or tracks;
4. "Trailer" shall include every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle and for which a certificate of title is required to be

- obtained pursuant to the provisions of chapter 39-05, except that it shall not include a "house trailer" or "mobile home";
5. "Semitrailer" shall include every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another motor vehicle and for which a certificate of title is required to be obtained pursuant to the provisions of chapter 39-05, except that it shall not include a "house trailer" or "mobile home";
 6. "Motor vehicle" shall include every vehicle which is self-propelled, every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, and every trailer and semi-trailer for which a certificate of title is required to be obtained pursuant to the provisions of chapter 39-05;
 7. "Mobile home" shall mean and include "house trailer" and said terms shall include every vehicle without motive power which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers;
 8. "Use" shall mean the exercise by any person of any right or power over a motor vehicle or a mobile home incident to the ownership or possession of such a vehicle, except that it shall not include the sale or holding for sale of such a vehicle in the regular course of business;
 9. "Purchase price" shall mean the amount paid, whether in cash, trade-in allowance, or other consideration, for the motor vehicle or mobile home, except that—
 - a. when a motor vehicle or mobile home is purchased or acquired for less than adequate and full consideration, it shall mean the reasonable market value thereof at the time it was purchased or acquired, or
 - b. when a motor vehicle or mobile home is manufactured by a person who registers it under the laws of this state, it shall mean the manufactured cost of such motor vehicle or mobile home and manufactured cost shall mean the amount expended for materials, labor and other properly allocable costs of manufacture except that, in the absence of actual expenditures for the manufacture of a part or all of the motor vehicle or mobile home, manufactured costs shall mean the reasonable value of the completed motor vehicle or mobile home;
 10. "Purchase" shall mean the obtaining of ownership of a motor vehicle or mobile home in return for the

payment of an equivalent monetary consideration therefor;

11. "Acquired" shall mean the obtaining of ownership or possession of a motor vehicle or mobile home in any way other than by purchase, except that it shall not include acquisition by inheritance from, or by bequest of, a decedent who owned it;
12. "Purchaser" shall mean any person owning or in possession of a motor vehicle or mobile home who makes application to the motor vehicle registrar for registration plates or a certificate of title for such vehicle.

***57-40.1-02. Tax Imposed.)** There is hereby imposed an excise tax of two percent of the purchase price of any motor vehicle purchased or acquired for use on the streets and highways of this state and required to be registered under the laws of this state, and a like rate of tax upon the purchase price of any mobile home purchased or acquired for use in this state.

57-40.1-03. Presumption.) For the purpose of the proper administration of this chapter and to prevent evasion of the tax the following presumptions shall apply:

1. Evidence that a motor vehicle or mobile home was sold for delivery in this state shall be prima facie evidence that it was sold for use in this state;
2. When an application for registration plates or for a certificate of title for a motor vehicle or for a mobile home is received by the motor vehicle registrar within thirty days of the date it was purchased or acquired by the purchaser, it shall be presumed, until the contrary is shown by the purchaser, that,
 - a. in the case of a motor vehicle, it was purchased or acquired for use on the streets and highways of this state, and,
 - b. in the case of a mobile home, it was purchased or acquired for use in this state.

This presumption shall apply whether or not such vehicle was previously titled or registered in another state.

57-40.1-04. Collection of Tax.) The tax imposed by this chapter shall be paid by the purchaser to the motor vehicle registrar at the time that application for the first registration plate or certificate of title of such motor vehicle or mobile home is made within this state. No registration plate or certificate of title shall be issued upon such application until such tax has been paid.

***Note:** Section 57-40.1-02 was subsequently amended by section 6, chapter 399, 1963 S.L.

57-40.1-05. Exemption.) There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

1. Any motor vehicle or mobile home upon the sale of which the retail sales tax imposed by the provisions of chapter 57-39 has been paid, provided that this exemption shall not be allowed unless the person making application for registration plates or for a certificate of title for a motor vehicle or mobile home shall furnish to the motor vehicle registrar a certificate from a licensed motor vehicle dealer in this state or from a mobile home dealer, whether or not licensed as such in this state, upon a form furnished by the registrar, certifying that such person has paid the retail sales tax prescribed by the provisions of chapter 57-39;
2. Common carrier vehicles engaged in interstate commerce;
3. Motor vehicles acquired by disabled veterans under the provisions of Public Law 663 of the 79th Congress of the United States as codified into section 1901 of title 38 of the United States Code and any passenger motor vehicle or pickup truck not exceeding ten thousand pounds gross weight subsequently purchased or acquired by such a disabled veteran, provided that this exemption shall be allowed only with respect to one such motor vehicle owned by such a disabled veteran at any one time;
4. Any motor vehicle or mobile home which is expressly exempt from the title registration provisions of chapter 39-05.

57-40.1-06. Credit for Sales or Use Tax Paid in Other States —Reciprocity.) If any motor vehicle or mobile home has been subjected already to a tax by any other state in respect to its sale or use in an amount less than the tax imposed by this chapter, the provisions of this chapter shall apply, but at a rate measured by the difference only between the rate fixed in this chapter and the rate by which the previous tax paid in the other state upon the sale or use was computed. If the rate of tax imposed in such other state is the same or more than the rate of tax imposed by this chapter, then no tax shall be due on such motor vehicle or mobile home. The provisions of this section shall apply only if such other state allows a credit with respect to the retail sales tax imposed by this state and the excise tax imposed by this chapter which is substantially similar in effect to the credit allowed by this section.

57-40.1-07. Distribution and Use of Revenue.) All moneys accruing by virtue of section 57-40.1-02, promptly upon collection, shall be paid by the motor vehicle registrar to the state treasurer and by him shall be transferred and credited to the motor vehicle registration fund.

57-40.1-08. Penalties.) Any person who makes any false statement with intent to defeat or evade the tax imposed by this chapter or who fails to pay such tax when required by this chapter shall be guilty of a misdemeanor for each such offense and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment.

§ 2. Amendment.) Subsection 8* of section 39-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "Semitrailer" shall include every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by a motor vehicle, except that it shall not include a "house trailer" or "mobile home" as defined in subsection 7 of this section;

§ 3. Amendment.) Subdivision j of subsection 2 of section 39-04-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- j. Passenger motor vehicles or pickup trucks not exceeding ten thousand pounds gross weight owned and operated by a disabled veteran under the provisions of Public Law 663 of the 79th Congress of the United States as codified into section 1901 of title 38 of the United States Code provided, however, that such vehicles display a distinctive license plate issued by the motor vehicle registrar upon the payment of one dollar. This exemption shall also apply to any passenger motor vehicle or pickup truck not exceeding ten thousands pounds gross weight subsequently purchased or acquired by such a disabled veteran, provided that it shall be allowed only with respect to one such motor vehicle owned by such a disabled veteran at any one time.

§ 4. Amendment.) Subsection 3 of section 39-04-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Motor vehicles acquired by disabled veterans under the provisions of Public Law 663 of the 79th Congress of

***Note:** This definition was also amended as subsection 55 of section 39-01-01 by section 2, chapter 264, 1963 S.L.

the United States as codified into section 1901 of title 38 of the United States Code shall be exempt from the payment of state sales or use tax and, if paid, such veterans shall be entitled to a refund. This exemption shall also apply to any passenger motor vehicle or pickup truck not exceeding ten thousand pounds gross weight subsequently purchased or acquired by such a disabled veteran, provided that it shall be allowed only with respect to one such motor vehicle owned by such a disabled veteran at any one time.

§ 5. Amendment.) Section 39-04-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-38. Taxes or Fees Provided for To Be in Lieu of Other State or Local Personal Property Taxes.) The taxes or fees provided for in this chapter shall be in lieu of all other personal property taxes, either state or local, upon such motor vehicles and upon any trailer or semitrailer for which a certificate of title is required to be issued and has been issued pursuant to the provisions of chapter 39-05.

§ 6. Amendment.) Subsection 6 of section 39-05-01 of the North Dakota Century Code, as amended, is hereby amended and reenacted to read as follows:

6. The term "motor vehicle" as used in this chapter shall include a house trailer or mobile home and any trailer or semitrailer that is designed and used for the commercial hauling of property or passengers.

§ 7. Amendment.) Section 39-05-12 of the North Dakota Century Code, as amended, is hereby amended and reenacted to read as follows:

39-05-12. Registration Card To Be Carried in or on Vehicle—Inspection of Card—Penalty.) The registration card issued for a vehicle shall be carried in the driver's compartment of the vehicle or, in the case of a house trailer or mobile home or a trailer or semitrailer regardless of when such vehicle was acquired, inside or on such vehicle, at all times while the vehicle is being operated upon a highway in this state. Such card shall be subject to inspection by any peace officer. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not more than twenty-five dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

§ 8. Amendment.) Subsection 4 of section 57-40-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Any motor vehicle, mobile home, trailer or semitrailer which is registered for a license under the motor vehicle laws of this state.

§ 9. Repeal.) Subsection 9 of section 57-40-01 and sections 57-40-12, 57-40-13 and 57-40-14 of the North Dakota Century Code are hereby repealed.

Approved March 21, 1963.

CHAPTER 406

S. B. No. 135
(Mutch, Kisse, Solberg)

MOTOR FUEL TAX REFUNDS

AN ACT

To create and enact section 57-50-05.1 and to amend and reenact section 57-50-05 of the North Dakota Century Code to provide for refund of motor fuel tax to state or political subdivision and prohibit refunds to private individuals or corporations, except liquefied petroleum gas used for heating purposes, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-50-05 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

57-50-05. Refund to State or Political Subdivision.) When any construction, reconstruction or maintenance of a public road, highway, street or airport is undertaken by the state or any county, city, village, township, park district or other municipality in the state and where public funds of the United States, state, county, city, village, township, park district or other municipality are directly used for the purchasing of motor vehicle fuel to be used in publicly owned vehicles for such construction, reconstruction or maintenance, such motor vehicle fuel shall be subject to a refund of the tax paid thereon as provided for in this chapter and under the same terms and conditions.

§ 2.) Section 57-50-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-50-05.1. Refunds to Private Individuals or Corporations Prohibited—Exception.) No tax refund shall be paid to any person, firm or private corporation on any motor vehicle fuel

used, except liquefied petroleum gas used for heating purposes, which is paid for from public funds of the United States, state, county, city, village, township, park district or other municipality.

§ 3. **Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 8, 1963.

CHAPTER 407

S. B. No. 268
(Morgan, Wadeson)

ASSIGNMENT OF REFUND CLAIMS

AN ACT

To amend and reenact section 57-50-11 and to create and enact section 57-50-11.1 of the North Dakota Century Code, relating to the assignment of motor vehicle fuel refund claims, requiring a permit during a certain period and providing for the revocation thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-50-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-11. Assignment of Refund Claims.) Any person eligible for motor fuel tax refund under this chapter, who has been sold such fuel by a seller on open account with the seller paying the refundable fuel tax, may assign to such seller his claim for such refund by attaching the assignment agreement to the refund claim form to be submitted by the claimant in accordance with section 57-50-02. Where such assignment of claim is made, and the claim is allowed under the provisions of this chapter, the check or warrant issued therefor shall be made payable to both the claimant and his assignee hereunder.

§ 2.) Section 57-50-11.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-50-11.1. Permit Required During Certain Period—Revocation Thereof.) Refund claims on motor fuel tax resulting from sales of motor fuel occurring during the period from the first day of April through the thirtieth day of September may

be assigned to the seller of the fuel when any sales receipt for the purchase of motor fuel on which a tax refund is owing under this chapter becomes thirty days or more old. The purchaser may assign to the seller his claim for refund by acknowledging the assignment agreement in writing on the face of the sales receipt. Before any person shall be allowed to assign his motor fuel tax refund to the seller during this period, he must have an unrevoked permit issued by the state auditor authorizing such assignment. The permit herein shall be issued to every applicant upon completion and forwarding to the state auditor an application form prescribed and furnished by the state auditor. Such application shall contain the sworn statement of the applicant that he is engaged in the business of agriculture and intends to use any fuel so assigned for agricultural purposes only. Such permit shall not be transferable and shall be valid for the person in whose name it is issued only. Permits issued under the provisions of this section shall be valid and effective until revoked by the state auditor. Where such assignment is made the seller may forward it to the state auditor for credit on his fuel tax return in the amount of the refund owing on the assigned sales receipt. Any purchaser who shall assign his claim for refund under the provisions of this section must file an annual report with the state auditor within the time limitation set forth in section 57-50-03. If any purchaser shall fail to file such report within the period of time designated herein the state auditor shall revoke such permit authorizing such assignment in the same manner as provided for in section 57-54-11. Such report forms shall be furnished by the state auditor in substantially the same form as is prescribed in section 57-50-02.

Approved March 18, 1963.

CHAPTER 408

S. B. No. 78

(Roen, Redlin, Erickson, Becker, Solberg)

ALLOCATION OF OIL AND GAS PRODUCTION TAX

AN ACT

To amend and reenact subsection 3 of section 57-51-15 of the North Dakota Century Code, relating to the allocation to counties of revenues from oil and gas gross production tax.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 3 of section 57-51-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Forty percent of all revenues as may by the legislature be allocated to any county hereunder shall be credited by the county treasurer to the county road and bridge fund; provided, however, that the board of county commissioners may by resolution transfer, use or irrevocably pledge so much thereof and for such period as it may deem necessary and in the best public interest for the purpose of conducting, undertaking and participating in underground or surface water surveys and investigations, development, construction, reconstruction and maintenance of works, dams and projects for the control, distribution and beneficial utilization of water resources. Forty-five percent of all revenues allocated to any county shall be apportioned by the county treasurer quarterly to school districts within the county on the average daily attendance distribution basis, as certified to him by the county superintendent of schools. Fifteen percent of all revenues allocated to any county hereunder shall be paid quarterly by the county treasurer to the incorporated cities and villages of the county based upon the population of each incorporated city and village according to the last official decennial federal census.

Approved March 18, 1963.

CHAPTER 409

S. B. No. 128
(Mutch, Kisse, Solberg)

SPECIAL FUEL TAX, EXEMPTIONS

AN ACT

To amend and reenact section 57-52-04 of the North Dakota Century Code to provide for the imposition of a tax on special fuel and providing for certain exemptions.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-52-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-04. Tax Imposed — Exemptions.) There is hereby levied and imposed an excise tax of six cents per gallon on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, industrial or railroad purposes shall be exempt from the tax imposed by this chapter. Said tax shall attach at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state auditor as hereinafter provided. The tax imposed herein shall be refundable when used for non-highway purposes, and the provisions and procedures of chapter 57-50 relating to the refund of motor fuel taxes shall apply to the tax imposed by this chapter.

Approved March 4, 1963.

CHAPTER 410

S. B. No. 127

(Mutch, Kisse, Solberg)

REVOCATION OF MOTOR FUEL DEALER'S LICENSE

AN ACT

To amend and reenact section 57-54-11 of the North Dakota Century Code to provide for the revocation of motor fuel dealer license.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-54-11 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

57-54-11. Failure to File Report—Revocation of License—Excuse for Delay.) If the holder of a license to sell motor fuel at any time shall either refuse or neglect to file the monthly report required to be filed, or pay the full amount of the tax as required by this chapter, the state auditor forthwith shall revoke such license and shall notify the holder thereof promptly by a notice sent by registered or certified mail to the post-office address of such holder as the same appears in the state auditor's records. However, if such report is filed and the tax paid within ten days after the date it becomes due and if it is established under oath that the delay was due to accident or justifiable oversight, then the state auditor may continue such license in full force and effect.

Approved March 18, 1963.

CHAPTER 411

H. B. No. 608
(Stockman, Paulsen)

TAXATION OF MOBILE HOMES

AN ACT

To provide for the taxing of mobile homes, sleeping trailers, and camping trailers in lieu of any personal property taxes thereon, providing for the collection and disbursement of such license fees, and providing penalties.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. County Auditor to Tax Mobile Homes.) On or before January fifteenth of each year all nonself-propelled mobile homes, sleeping trailers, and camping trailers, hereinafter referred to as "trailers", shall be taxed by the county auditor of the county of such trailer owner's domicile upon receipt of such owner's tax. The tax shall be valid in any county of this state during the period for which it was issued.

§ 2. Application for Taxing—Form—Contents.) No trailer tax decal shall be issued unless the trailer owner files an application with the county auditor. Application shall be on duplicate forms, furnished by the county auditor, and shall contain, in addition to any other information the county auditor shall request, a full description of the trailer and its contents, including the name of the manufacturer, serial or identification number, age, length, and width of such trailer, owner's name and address, and space for the owner to list his personal property contained in such trailer. The duplicate of each application, the number of the tax decal issued to the applicant, and one dollar shall be paid by the applicant, and shall be retained by the county auditor for administration costs.

§ 3. When Taxes Become Due and Delinquent.) The tax for a trailer shall become due upon expiration of fifteen days after such trailer is brought into this state and upon January fifteenth of each year thereafter. Such tax shall become delinquent if not paid within fifteen days after it becomes due. A penalty of ten cents a day shall be added to the amount due for each and every day such tax shall be delinquent, for not more than fifteen days, and two dollars for every thirty days, or fraction thereof, not to exceed one hundred and fifty days. Taxes, other than the per capita school tax and decal charge, shall be prorated on a calendar quarterly basis, and the county auditor may, in his discretion for good cause shown,

authorize payment of the tax in not to exceed four equal monthly installments, without penalty, if the amount of the tax due is forty dollars or more. The penalty provided in this section shall also apply to installment payments, which shall become delinquent fifteen days after the date said installment was due and payable.

§ 4. Taxes — How Determined — Disbursement.) The tax for each trailer shall be determined by the county auditor by placing an evaluation on such trailer and its contents pursuant to standards and guides as determined by the state tax commissioner and applying such evaluation to the total of all of the most recent mill levies applying to property within the taxing district wherein the trailer is located. The county auditor shall also collect the trailer owner's per capita school tax and the remainder of such tax collected shall be disbursed in the same manner as other personal property and per capita school taxes.

§ 5. Taxes in Lieu of Personal Property Tax.) The taxes provided for in this chapter shall be in lieu of all personal property taxes upon such trailers and their contents for the calendar year for which the tax decal is valid. However, such taxes shall in no way be construed as exempting any trailer owner from the requirements of registering such trailer with the motor vehicle registrar or securing license plates entitling such trailer to be hauled upon the state's highways pursuant to section 39-18-03.

§ 6. Tax Decals.) The tax decal shall be decal type and of a size and design specified by the motor vehicle registrar. The registrar shall arrange for the manufacture of such decals and shall supply each county auditor with one decal for each trailer in the county upon request, and the costs to be paid by the county.

§ 7. Unlawful to Use Tax Decal on Any Other Trailer.) Any person who shall use or allow to be used a tax decal of any trailer taxed pursuant to the provisions of this chapter for any purpose other than the purpose for which it was issued shall be guilty of a misdemeanor and punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

§ 8. Duty of Trailer Park Operators—Duty of Local Law Enforcement Agency.) It shall be the duty of the owner, operator, or manager of each trailer park, or trailer lot, or any person permitting a trailer to be parked on his property to inform each trailer owner applying for admission to such park, lot or property of the requirements of this chapter and

the penalties for failure to comply. Such information shall also be posted in a conspicuous place on the premises of such lot or property. The local law enforcement agency shall make inspections at least quarterly of each trailer park, trailer lot, or place where trailers are known to be located, for the purpose of determining if the provisions of this chapter are being complied with. If he shall determine that any person is not complying with the provisions of this chapter he shall give such person a warning and inform him that if he fails to comply within ten days after issuance of such warning a summons shall be issued for his arrest. The local law enforcement agency shall then notify the county auditor of such person's name and alleged violation. If the alleged violator does not present proof of his compliance to the county auditor within ten days after issuance of the warning the county auditor shall sign a summons for his arrest.

§ 9. **Rules and Regulations.)** The state tax commissioner may make any rules and regulations that are necessary to carry out the provisions of this chapter.

§ 10. **Exceptions.)** The provisions of this chapter shall not apply to trailers owned by licensed mobile home dealers for purposes of resale.

§ 11. **Collection.)** The provision of section 57-22-21.2 relating to the collection of taxes shall apply to the collection of taxes under the provisions of this Act insofar as they are consistent with the provisions of this Act.

Approved March 21, 1963.