

TAXATION

CHAPTER 444

HOUSE BILL NO. 1436
(Dornacker, Weber)

SALES, MARKET, AND PRODUCTIVITY STUDIES

AN ACT to provide a statement of legislative intent concerning the use of sales, market, and productivity studies in the assessment and equalization of property for taxation purposes; to amend and reenact subsection 4 of section 57-01-05, and sections 57-01-06 and 57-01-07 of the North Dakota Century Code, relating to the authority of the state supervisor of assessments and the state tax commissioner, and property to be excluded in sales, market, and productivity studies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. STATEMENT OF LEGISLATIVE INTENT CONCERNING USE OF SALES, MARKET, AND PRODUCTIVITY STUDIES.) It is the intent of the legislative assembly that local assessors, county directors of tax equalization, and city, township, county, and state boards of equalization use the results of sales, market, and productivity studies as a guide in making assessments and in equalizing assessments of property in this state. The legislative assembly recognizes that sales of property alone provide insufficient information to make accurate judgments concerning the market value of property within the various counties of this state, particularly in view of the limited number of sales which occur within a given period of time in many counties, and that, in order to get an accurate picture of market value, consideration must be given to such factors as property appraisals, productivity, and current usage of property.

SECTION 2. AMENDMENT.) Subsection 4 of section 57-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. He may make sales, market, and productivity studies and other studies of property assessments in the various counties and cities of this state for the purpose of properly advising the various assessors and directors of tax equalization 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 sales, market, and productivity study made according to

section 57-01-06, the county directors of tax equalization or city assessors, as the case may be, shall be responsible for compiling a record of sales of property made in such county or city, and in conjunction with the county commissioners shall analyze such sales for the purpose of advising the state supervisors of assessments as to the value of using such sales in any such study. Such compilations shall be forwarded to the state supervisor of assessments with the findings of the county director of tax equalization, city assessors, and the board of county commissioners. In any county or city or any part thereof where the number of sales of properties is insufficient for making a sales, market, and productivity study, the county director of tax equalization or city assessor, as the case may be, in cooperation with the state supervisor of assessments or his assistants shall make appraisals of properties in order to determine the market value.

SECTION 3. AMENDMENT.) Section 57-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-01-06. SALES, MARKET, AND PRODUCTIVITY STUDY - CONTENTS NOT TO BE INCLUDED.) Any sales, market, and productivity study which may be made by the state tax commissioner shall not include the following:

1. Property owned or used by public utilities;
2. Property classified as personal property;
3. A sale where the grantor and the grantee are of the same family or corporate affiliate (if known);
4. A sale which resulted as a settlement of an estate;
5. All sales to or from a government or governmental agency;
6. All forced sales, mortgage foreclosures, and tax sales;
7. All sales to or from religious, charitable, or nonprofit organizations;
8. All sales where there is an indicated change of use by the new owner;
9. All transfer of ownership of property for which is given a quitclaim deed;
10. Sales of property not assessable by law; and
11. Agricultural lands of less than eighty acres.

SECTION 4. AMENDMENT.) Section 57-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-01-07. REVIEW OF SALES, MARKET, AND PRODUCTIVITY STUDY
BY STATE TAX COMMISSIONER - APPEAL.)

1. The state tax commissioner shall notify each county board of commissioners of a scheduled hearing of the sales, market, and productivity study before him. Such notice shall set forth the time and date and place of such hearing. After hearing objections to using certain sales in the study, the state tax commissioner shall be authorized to withdraw such sales which he deems are not representative. Within thirty days after the close of such formal hearing, the state tax commissioner shall notify each county board of commissioners, in writing, as to the action taken as a result of such hearing. Within ten days after receiving such notice from the state tax commissioner, each board of county commissioners may appeal the decision of the state tax commissioner to the state board of equalization. Such board will review the findings of the state tax commissioner and render its final decision on such appeal.
2. No sale shall be used in any sales, market, and productivity study until it has been verified by the state tax commissioner, the county supervisor of assessments, township supervisors, or the board of county commissioners or its agent that none of the exclusions set forth in section 57-01-06 have been used in the study.

Approved March 28, 1973

CHAPTER 445

SENATE BILL NO. 2269
(Melland, Tweten)

NURSING HOME TAX EXEMPTION

AN ACT to amend and reenact subsection 8 of section 57-02-08 of the North Dakota Century Code, relating to exemptions from real property taxation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 8 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. All buildings and contents thereof belonging to institutions of public charity, including public hospitals and nursing homes licensed pursuant to section 23-16-01 under the control of religious or charitable institutions, used wholly or in part for public charity, together with the land actually occupied by such institutions not leased or otherwise used with a view to profit, and all moneys and credits appropriated solely to sustaining and belonging exclusively to such institutions;

Approved March 28, 1973

CHAPTER 446

HOUSE BILL NO. 1338
(Wagner)

TAXATION OF BANKS

AN ACT to amend and reenact subsection 12 of section 57-02-08 and sections 57-35-06 and 57-35.1-02 of the North Dakota Century Code, relating to mobile homes owned by banks and savings and loan institutions; and to repeal section 57-02-26.1 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 12 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12. All personal property of any insurance company or rural electric cooperative which is subject to a lieu tax upon gross premiums, gross earnings, or net income;

SECTION 2. AMENDMENT.) Section 57-35-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35-06. LIEU TAX.) The tax provided in this chapter shall be in lieu of all other taxes or impositions, state, county, and local, except sales and use taxes, including motor vehicle excise taxes, and taxes upon the real and personal property of each such bank and trust company.

SECTION 3. AMENDMENT.) Section 57-35.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.1-02. IMPOSITION AND BASIS OF TAX.) An annual tax is hereby imposed upon each building and loan association, for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year, commencing January 1, 1961. This tax is in lieu of all other taxes or impositions, state, county, and local, except sales and use taxes, including motor vehicle excise taxes, and taxes upon the real and personal property of any association, and shall be based upon and measured by the net income of each association for the preceding calendar year. The amount of the tax shall be computed by the tax commissioner at the rate of five percent of such net income. Regardless of such computation, the minimum tax assessable hereunder to any association shall be fifty dollars. The liability for the tax imposed by this chapter shall arise upon the first day of each calendar year following the year for which the net income is used as the base for measuring the tax.

SECTION 4. REPEAL.) Section 57-02-26.1 of the North Dakota Century Code is hereby repealed.

Approved March 14, 1973

CHAPTER 447

SENATE BILL NO. 2318
(Butler)

FARM STRUCTURE TAX EXEMPTION

AN ACT to amend and reenact subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the property tax exemption for farm structures and improvements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 15 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15. All farm structures, and improvements located on agricultural lands. This subsection shall be construed to exempt farm buildings and improvements only, and shall not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence. Any structure or structures used in connection with a retail or wholesale business other than farming, even though situated on agricultural land, shall not be exempt under this subsection. It is the intent of the legislative assembly that this exemption as applied to a residence shall be strictly construed and interpreted to exempt only a resident which is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption shall not be applied to property which is occupied or used by a person who is not a farmer; for this purpose the term "farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres and which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, with not less than fifty percent of his annual net income; and the term "farmer" means an individual who normally devotes the major portion of his time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state and who normally receives not less than fifty percent of his annual net income from any one or more of the foregoing activities; and the term also includes an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer as defined above the residence in which he lives and for which the exemption is claimed;

Approved March 28, 1973

CHAPTER 448

HOUSE BILL NO. 1314
(Dornacker, Backes)

HOMESTEAD CREDIT

AN ACT to provide for a homestead credit; to amend and reenact section 57-02-08.1 of the North Dakota Century Code, relating to property tax credits for persons sixty-five years of age or older with limited income; providing for an appropriation; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

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

57-02-08.1. PROPERTY TAX CREDITS FOR PERSONS SIXTY-FIVE YEARS OF AGE OR OLDER WITH LIMITED INCOME - PENALTY FOR FALSE STATEMENT.)

1. Any person sixty-five years of age or older in the year in which the tax was levied with an income of three thousand five hundred dollars or less per annum from all sources, including the income of any person dependent upon him, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, shall receive a reduction in the assessment up to a maximum reduction of one thousand dollars of assessed valuation on his homestead as defined in section 47-18-01, except that this exemption shall apply to any person who otherwise qualifies under the provisions of this subsection regardless of whether or not such person is the head of a family. In no case shall a husband and wife who are living together both be entitled to the credit as provided for in this subsection upon their homestead. The provisions of this subsection shall not reduce the liability of any person for special assessments levied upon his property. Any person eligible for the exemption herein provided shall sign a statement that he is sixty-five years of age or older and that such income, including that of any dependent, as determined in this chapter does not exceed three thousand five hundred dollars per annum. The term "dependent" shall include the spouse, if any, of the person claiming the exemption. Any person

knowingly signing a false statement shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. The assessor shall attach such statement to the assessment sheet and shall show the reduction on the assessment sheet.

2. Any person sixty-five years of age or older with an income of three thousand five hundred dollars or less per annum from all sources, including the income of any person dependent upon him, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, and who rents living quarters shall be eligible for refund for that part of his annual rent which is deemed by this subsection to constitute the payment of property tax and which is further deemed to represent a burdensome share of his income. For the purpose of this subsection, twenty percent of the annual rent, exclusive of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement, shall be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds five percent of the annual income of a qualified applicant, said applicant shall receive a refund from the state general fund for that amount in excess of five percent of his annual income, but such refund shall not be in excess of one hundred dollars. In no case shall a husband and wife who are living together both be entitled to the refund as provided for in this subsection. Each application for refund under this subsection shall be made to the tax commissioner before the first day of March of each year by the person claiming the refund. The tax commissioner shall certify to the state treasurer the amount of the refund due, if any, and the state treasurer shall issue the refund from the state general fund to the applicant. In no case shall this subsection apply to rents or fees paid by a person to a nursing home licensed pursuant to section 23-16-01 if that nursing home has been declared exempt from property taxation.
3. All forms necessary to effectuate this section shall be prescribed and designed by the tax commissioner who shall annually distribute an adequate supply of same to each county director of tax equalization. The county directors of tax equalization shall make these forms available upon request.
4. Any person knowingly signing a false statement in an attempt to qualify for the credit or refund provided by this section shall be guilty of a misdemeanor.

SECTION 2. HOMESTEAD CREDIT - CERTIFICATION.) Prior to March 1, 1975, and of each year thereafter, the county auditor of each county shall certify to the state tax commissioner on forms prescribed by him the name and address of each person for whom the homestead credit provided for in section 57-02-08.1 was allowed for the preceding year, the amount of exemption allowed, the total of the tax mill rates of all taxing districts, exclusive of any state mill rates, that was applied to other real estate in such taxing districts for the preceding year, and such other information as may be prescribed by the tax commissioner.

The tax commissioner shall audit such certifications, make such corrections as may be required, and certify to the state treasurer for payment to each county on or before June 1, 1975, and of each year thereafter, fifty percent of the sum of the amounts computed by multiplying one-half of the exemption allowed for each such homestead in the county for the preceding year by the total of the tax mill rates, exclusive of any state mill rates, that was applied to other real estate in such taxing districts for that year.

The county treasurer upon receipt of the payment from the state treasurer shall forthwith apportion and distribute it to the county and to the local taxing districts of the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.

Supplemental certifications by the county auditor and by the state tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed herein to make such corrections as may be necessary because of errors therein or because of approval of any application for abatement filed by a person because the exemption provided for in section 57-02-08.1 was not allowed in whole or in part.

SECTION 3. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$370,000.00, or so much thereof as may be necessary, to the state treasurer for the reimbursement of county tax credits and the payment of refunds, as provided for in this section, and there is further appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,000.00, or so much thereof as may be necessary, to the tax commissioner for the costs of the administration of this section.

SECTION 4. EFFECTIVE DATE.) This Act shall be effective for all affected taxes which are levied after January 1, 1974.

Approved March 29, 1973

CHAPTER 449

SENATE BILL NO. 2027
(Butler, Goldberg, Jones)
(From Legislative Council Study)

CHANGE IN ASSESSMENT DATE

AN ACT to amend and reenact subsections 1, 2, 4, and 6 of section 57-02-11, sections 57-02-31, 57-02-34, 57-09-01, 57-09-06, 57-11-01, 57-12-01, 57-12-01.1, 57-12-08, and 57-23-02 of the North Dakota Century Code, relating to property tax, assessment procedures, assessment dates, and meeting dates of township, city, and county boards of equalization.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 1, 2, 4, and 6 of section 57-02-11 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Except as provided in subsection 6 of this section, all real property subject to taxation shall be listed and assessed every odd-numbered year with reference to its value, on February first of that year, and shall not be reassessed in the following year, except by order of the board of county commissioners or tax commissioner. Property assessed in odd-numbered years shall be taxed upon the assessed valuation as equalized by the state board of equalization in such year and in the following year, except as otherwise provided in this chapter. All real property becoming taxable in any intervening year shall be listed and assessed with reference to its value on February first in that year.
2. All taxable personal property, except stocks of merchandise, shall be listed and assessed annually with reference to its value on February first of each year. For the purpose of assessment for taxation, each stock of merchandise shall be valued according to the average value for the twelve-month period preceding February first. Each owner shall keep in his place of business a copy of all inventories taken during the preceding year, and all other records and data pertaining to the cost price of such merchandise, and such inventories and other cost data shall be available, at all times, for examination by the assessor or other taxing officers.

- * 4. Whenever after the first day of February and before the first day of April in any year, it is made to appear to the assessor by the oath of the owner that any building, structure, or other improvement, or tangible personal property, which is listed for taxation for the current year has been destroyed or injured by fire, flood, or tornado, he shall investigate the matter and deduct from the valuation of the property of the owner of such destroyed property an amount which in his judgment fairly represents such deduction as should be made. No deduction shall be made on account of damages covered by insurance or damages amounting to less than one hundred dollars.
6. Notwithstanding the other provisions of this section, the governing body of any city may by resolution provide that all real property within the city shall be listed and assessed annually with reference to its value on February first of each year. The assessments of real property assessed annually shall be equalized and corrected annually in the manner and subject to the same requirements as are provided for equalizing the assessments of real property that is listed and assessed every odd-numbered year.

SECTION 2. AMENDMENT.) Section 57-02-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-31. AUDITOR TO FURNISH BOOKS TO ASSESSORS AT MEETING.) The county auditor annually shall provide the necessary books and blanks at the expense of the county for and to correspond with each assessment district or township. In every odd-numbered year, he shall make out in the real property assessment book a complete list of all lands or lots subject to taxation. Such list shall show the name of the owner, if known to him, and if unknown, shall state that fact, the number of acres, and the lots and parts of lots or blocks included in each description. On or before the second Wednesday in February of each year, on previous notice by mail given by the county auditor to each assessor in the county, all such assessors shall meet in the office of said county auditor for conference with reference to the duties of their office, and the said county auditor then shall deliver to each assessor the assessment books and blanks for his assessment district. Each assessor shall be allowed for the time necessarily employed in attending such meeting the sum of four dollars a day for each day's attendance and five cents a mile for each mile necessarily traveled in such attendance.

SECTION 3. AMENDMENT.) Section 57-02-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-34. WHEN AND HOW ASSESSMENT MADE.) The assessor shall perform the duties required of him during the twelve-month period prior to April first and in the following manner: He shall determine the true and full value of each tract or lot of real

*NOTE: Subsection 4 of section 57-02-11 was repealed by section 2 of Senate Bill No. 2342, chapter 458.

SECTION 6. AMENDMENT.) Section 57-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-11-01. MEMBERSHIP OF BOARD - QUORUM - MEETING.) The board of equalization of a city shall consist of the members of the governing body, and shall meet at the usual place of meeting of the governing body of the city, on the second Tuesday in April in each year. The executive officer of the governing body shall act as chairman, but in his absence the governing body may elect one of its members to preside. A majority of the board shall constitute a quorum to transact business, and it may adjourn from day to day until its work is completed. In case a quorum is not present at any time, the clerk may adjourn from day to day and publicly announce the time to which the meeting is adjourned.

SECTION 7. 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, shall meet on the first Tuesday in June of each year, and shall constitute a board of equalization of the assessments made within the county. The chairman of the board shall preside. The county board of equalization shall conduct a continuous day-to-day meeting, not to include Saturdays, Sundays, or legal holidays, until it has completed all duties prescribed by this chapter. The first order of business shall be the equalization of assessments of property assessed by city boards of equalization. The second order of business shall be the equalization of assessments of property assessed by township boards of equalization. The chairman of each city board of equalization, or his appointed representative, and each city assessor shall be present at such meeting during the first order of business. The chairman of each township board of equalization, or his appointed representative, and each township assessor shall be present at such meeting during the second order of business. Each person required by this section to attend the meeting of the county board of equalization shall be compensated at a rate not to exceed ten dollars per day for each day actually and necessarily spent in attendance at such meeting plus the same mileage and expenses as are authorized for subdivision employees and officials. Such per diem and expenses shall be paid by the city or township in the same manner as other city or township expenses are paid.

SECTION 8. AMENDMENT.) Section 57-12-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-12-01.1. 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. The spot

checks shall be reviewed by the county boards of equalization at their annual meeting in June and such boards shall make the necessary corrections in the property assessment listings and valuations. Such changes in the assessments shall be made in accordance with the provisions of chapter 57-12.

In case any person whose duty it is to list property with the assessor shall refuse to list such property or shall intentionally omit a portion of such property in his listing as indicated by the spot check, the county boards of equalization, as a penalty for such refusal or omission, may make an added assessment on such property of twenty-five percent in excess of its true valuation unless the assessor has imposed the penalty provided in section 57-02-12.

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.

SECTION 9. AMENDMENT.) Section 57-12-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-12-08. AUDITOR TO CORRECT LIST AND SEND ABSTRACT TO STATE TAX COMMISSIONER.) The county auditor shall calculate the changes in the assessment lists determined by the county board of equalization and shall make corrections accordingly. After making such corrections, he shall make duplicate abstracts of the real and personal property lists, one copy of which he shall file in his office and one copy of which he shall forward to the state tax commissioner on or before the last day of June following each county equalization.

SECTION 10. AMENDMENT.) Section 57-23-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-02. NOTICE OF EQUALIZATION MEETINGS TO BE PUBLISHED.) Each year the county auditor shall cause to be published in the official county newspaper for two successive weeks, the first publication to be not earlier than March first, and the last publication not later than March twentieth, a notice to the effect that proceedings for the equalization of assessments will be taken by the several local equalization boards as follows: in any organized township on the second Monday in April, and in any city on the second Tuesday in June, at the office of the clerk or auditor of the township, or city, as the case may be, and that each taxpayer has the right to appear before the appropriate board of review or equalization and petition for correction in his assessment.

Approved March 28, 1973

CHAPTER 450

HOUSE BILL NO. 1465
(Gackle)

APPOINTMENT OF ASSESSORS

AN ACT to amend and reenact sections 57-02-33, 58-04-10, and 58-09-02 of the North Dakota Century Code, relating to the appointment of the township assessor by the township supervisors and the district assessor to be appointed by the board of county commissioners for a four-year term; and to repeal section 58-09-01 of the North Dakota Century Code, relating to the qualifications of a township assessor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-02-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-33. ASSESSOR DISTRICTS FOR UNORGANIZED TERRITORY.) All counties or parts of counties in this state not organized into civil townships shall be divided into assessor districts, which shall be designated by the board of county commissioners. The board of county commissioners shall appoint the district assessors to a four-year term of office, the first term commencing on January 1, 1974. In case of vacancy in the office of district assessor in any of such districts, such vacancies shall be filled by the board of county commissioners for the balance of the term. In making the appointment of a district assessor, the county director of tax equalization for such county shall be eligible for appointment to a district assessor position. All assessors of territory not organized into civil townships shall receive as compensation for his services a sum determined by the board of county commissioners for the time actually and necessarily employed in making and completing the assessment of his district. The compensation shall be paid from the treasury of the county in which such district is located only upon an itemized statement setting forth the actual time spent in the work of the assessor and mileage traveled, approved by the board of county commissioners. In addition, the district assessor shall be paid such mileage as is required to perform the duties of his office. The board of county commissioners shall have the authority to appoint a deputy assessor where needed, to be compensated in the same manner as the district assessor.

SECTION 2. AMENDMENT.) Section 58-04-10 of the North

Dakota Century Code is hereby amended and reenacted to read as follows:

* 58-04-10. OFFICERS TO BE ELECTED BY BALLOT.) The supervisors, treasurer, clerk, and constables in each township shall be elected by ballot. All other officers, if not otherwise provided by law, shall be chosen either by yeas and nays or by a division as the electors determine.

SECTION 3. AMENDMENT.) Section 58-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-09-02. COMPENSATION OF ASSESSOR.) The township assessor shall receive as compensation for his services a sum determined by the board of township supervisors for the time actually and necessarily employed in making and completing the assessment of the township. The compensation shall be paid out of the township treasury upon an itemized statement setting forth the actual time spent in the work of assessor, approved by the board of township supervisors.

* SECTION 4. REPEAL.) Section 58-09-01 of the North Dakota Century Code is hereby repealed.

Approved March 28, 1973

*NOTE: Section 58-04-10 was also amended by section 1 of House Bill No. 1300, chapter 492.

*NOTE: Section 58-09-01 was also repealed by section 4 of House Bill No. 1300, chapter 492.

CHAPTER 451

SENATE BILL NO. 2125
(Melland, Anderson)

EXEMPTION OF IMPROVEMENTS TO
COMMERCIAL BUILDINGS

AN ACT to provide a real property tax exemption for improvements to commercial buildings and structures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DECLARATION AND FINDING OF PUBLIC PURPOSE.) The legislative assembly hereby declares and finds that the present method of assessment and taxation of real property discourages the investment of private capital in the rehabilitation and remodeling of commercial buildings and structures with the result that such properties have been allowed by their owners to decay, become in need of repair, modernization, and replacement, and that such conditions have resulted in a decreased tax base. The legislative assembly further finds that it is in the public interest and for the welfare of the state of North Dakota, its political subdivisions, and its citizens to encourage the investment of private capital in improvements to commercial buildings and structures, thereby encouraging the production of wealth, improving the volume of employment, and preserving and increasing the property tax base. It is the intent of the legislative assembly that the exemptions from taxation provided for in this Act provide an alternative to the property tax exemptions provided for in chapters 40-57 and 40-57.1.

SECTION 2. IMPROVEMENT DEFINED.) In this Act, unless the context or subject matter otherwise requires, the term "improvement" means the renovation, remodeling, or alteration, but not the replacement, of an existing building or structure for use for commercial purposes, and use for commercial purposes shall not include use for residential purposes. An addition constructed to an existing building or structure to enlarge it shall not be regarded as an improvement for the purposes of this Act.

SECTION 3. TAX EXEMPTION FOR IMPROVEMENTS TO COMMERCIAL BUILDINGS AND STRUCTURES - PROPERTY OWNER'S CERTIFICATE.) Improvements to commercial buildings and structures as defined in this Act may be exempt from assessment and taxation for three years from the date of commencement of making the

improvements. The exemption provided by this Act shall apply only to that part of the valuation resulting from the improvements which is over and above the assessed valuation, exclusive of the land, placed upon the building or structure for the last assessment period immediately preceding the date of commencement of the improvements. Any person, corporation, association, or organization owning real property and claiming an exemption pursuant to the provisions of this Act shall file with the assessor a certificate setting out the facts upon which the claim for exemption is based. The assessor shall furnish a copy of the certificate to the county director of tax equalization. The assessor shall determine whether the improvements qualify for the exemption, and if he determines that the exemption should apply, upon approval of the governing body, the exemption shall be valid for the three year period and shall not terminate upon the sale or exchange of the property but shall be transferable to subsequent owners for such three year period. If the certificate is not filed as herein provided, the assessor shall regard the improvements as nonexempt and shall assess them as such. The decision of the assessor shall be subject to correction, abatement, and appeal in the manner provided by law for other assessments.

Approved March 27, 1973

CHAPTER 452

SENATE BILL NO. 2028
(Butler, Goldberg, Jones)
(From Legislative Council Study)

NOTICE OF INCREASED ASSESSMENTS

AN ACT to amend and reenact section 57-12-09 of the North Dakota Century Code, relating to the mailing of notice of increased assessments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-12-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-12-09. WRITTEN NOTICE OF INCREASED ASSESSMENT TO REAL ESTATE OWNER.) When any assessor has increased the assessed valuation of any lot or tract of land together with any improvements thereon by more than one hundred dollars over the last assessment on it, written notice of the amount of increase over the last assessment and the amount of the last assessment shall be delivered by such assessor to the property owner or mailed to him at his last known address. The tax commissioner shall prescribe suitable forms for this notice and such notice shall also show the estimated market value of the property that the assessor used in making the assessment for the current year and for the year in which the last assessment was made and shall also show the date prescribed by law for the meeting of the local equalization board of the assessment district in which the property is located and the meeting date of the county equalization board. Such notice shall be mailed or delivered to the property owner at least ten days in advance of the meeting date of the local equalization board and shall be mailed or delivered at the expense of the assessment district for which the assessor is employed.

Approved March 27, 1973

CHAPTER 453

HOUSE BILL NO. 1502
(Metzger)

CITY LEVY FOR PUBLIC BUILDINGS

AN ACT to amend and reenact section 57-15-44 of the North Dakota Century Code, relating to clarification of city tax levy for public buildings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-15-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-44. CITY TAX LEVY FOR ACQUIRING REAL ESTATE FOR PUBLIC BUILDING.) The governing body of any city may levy taxes annually, not in excess of two mills in each year, which levy shall be in addition to and not restricted by the levy limitations prescribed by law, for a fund which shall be used for the purpose of acquiring real estate as a site for public buildings, construction of public buildings, and the furnishing of public buildings to be constructed on such sites, or for a city's participating share in urban renewal programs, such tax to be levied, spread, and collected in the same manner as are other taxes in and for such city. Whether said levy shall be discontinued shall be submitted to the voters at the next regular election upon petition of twenty-five percent of the electors voting in the last regular city election, said petition to be filed not less than sixty days before said election. If the majority of electors vote that said levy shall not continue, it may not again be levied without a majority vote of the electors at a later regular election which question may be submitted upon petition of electors as above provided for or by decision of the governing board.

Approved March 27, 1973

CHAPTER 454

SENATE BILL NO. 2301
(Wright)

TOWNSHIP AMBULANCE LEVY

AN ACT to create and enact section 57-15-51.1 of the North Dakota Century Code, to authorize a special township tax levy for ambulance services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) Section 57-15-51.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-15-51.1. LEVY AUTHORIZED FOR TOWNSHIP AMBULANCE SERVICE.) Pursuant to a vote of sixty percent of the qualified electors voting at the annual township meeting, or at a special election called for that purpose upon petition of fifty percent of the number of qualified electors of the township voting in the last election for governor, the board of township supervisors shall levy annually a tax of not to exceed one mill on the net taxable assessed valuation of the township for the purpose of subsidizing township ambulance service. Such levy shall be in addition to those authorized under sections 57-15-50 and 57-15-51.

Approved March 11, 1973

CHAPTER 455

HOUSE BILL NO. 1372
(Laughlin)

COUNTY WELFARE LEVY

AN ACT to provide for an additional two-mill levy for county welfare purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. LEVY FOR COUNTY WELFARE.) The board of county commissioners, when authorized to do so by sixty percent of the electors voting on the question in a regular election or special election called by the county commissioners, may levy an annual tax not in excess of two mills on the net taxable assessed valuation, for county welfare purposes. Such levy shall be in addition to and not restricted by any levy limitations prescribed by law. The proceeds of such levy shall be used solely and exclusively for county welfare purposes, as determined by the county welfare board. Such levy may be discontinued at the discretion of the county commissioners; or, upon petition of five percent of the qualified electors of such county, the question of discontinuance of the levy shall be submitted to the electors of the county at any regular or special election and, upon a favorable vote of sixty percent of the electors voting, such levy shall be discontinued.

Approved March 21, 1973

CHAPTER 456

HOUSE BILL NO. 1366
(Fleming)

TRANSFER OF SCHOOL DISTRICT
SPECIAL RESERVE FUNDS

AN ACT to amend and reenact section 57-19-09 of the North Dakota Century Code, relating to the discontinuance and transfer of school district special reserve funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-19-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-19-09. WHEN FUND MAY BE TRANSFERRED.) Any school district which has heretofore by mistake, or for any other reason, considered all or any part of a special reserve fund, as provided for in chapter 57-19, in determining the budget for the school district which has deducted all or any part of the funds in such special reserve fund from the amount necessary to be levied for any school fiscal year, may transfer from the special reserve fund into the general fund all or any part of such amounts which have been so considered contrary to the provisions of section 57-19-05. Any school district special reserve fund and the tax levy therefor may be discontinued by a vote of sixty percent of the electors of the school district voting upon the question at any special or general election. Any moneys remaining unexpended in such special reserve fund shall be transferred to the building or general fund of the school district. The discontinuance of a special reserve fund shall not decrease the school district tax levies otherwise provided for by law by more than twenty percent. A special reserve fund and the tax levy therefor which has been discontinued may be reinstated by a vote of sixty percent of the electors of the school district voting upon the question at any special or general election.

Approved March 3, 1973

CHAPTER 457

SENATE BILL NO. 2029
(Butler, Jones)
(From Legislative Council Study)

PROPERTY TAX STATEMENTS

AN ACT to provide for the mailing of real estate tax statements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. COUNTY TREASURER TO MAIL REAL ESTATE TAX STATEMENT.) On or before December thirty-first of each year, the county treasurer shall mail a real estate tax statement to the owner of each parcel of real property at his last known address. Such tax statements shall include a dollar valuation of the estimated current market value of the property and the total mill levy applicable. Failure of an owner to receive a statement will not relieve that owner of liability, nor extend the discount privilege past the February 15th deadline.

Approved March 28, 1973

CHAPTER 458

SENATE BILL NO. 2342
(Ringsak, Morgan, Goldberg)

TAX ABATEMENTS FOR PROPERTY DESTROYED

AN ACT to amend and reenact subsection 7 of section 57-23-04 of the North Dakota Century Code, relating to the abatement or refund of taxes by county commissioners in cases of property destroyed or injured by fire, flood, or tornado; and to repeal subsection 4 of section 57-02-11 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 7 of section 57-23-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * 7. When any building, structure, or other improvement or tangible personal property has been destroyed or injured by fire, flood, or tornado the abatement or refund shall be granted only for that part of the year remaining after the property was damaged or destroyed.

* SECTION 2. REPEAL.) Subsection 4 of section 57-02-11 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1973

*NOTE: Section 57-23-04 was also amended by section 5 of House Bill No. 1027, chapter 459.

*NOTE: Subsection 4 of section 57-02-11 was amended by section 1 of Senate Bill No. 2027, chapter 449.

CHAPTER 459

HOUSE BILL NO. 1027

(Backes, Dornacker, Dotzenrod, Gackle, Hentges, K. Johnson, Wilkie)
(From Legislative Council Study)

TAX APPEALS BOARD

AN ACT to create a tax appeals board to hear appeals of tax abatement cases from decisions of boards of county commissioners, and to provide procedures for the administration of such appeals; to amend and reenact sections 57-20-20, 57-23-03, 57-23-04, and 57-23-08 of the North Dakota Century Code, relating to the payment of taxes under protest and to tax abatements; to repeal section 57-23-11 of the North Dakota Century Code, relating to the retroactive application of abatement actions; and providing an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. TAX APPEALS BOARD - MEMBERS - APPOINTMENTS - COMPENSATION.) The tax appeals board shall consist of seven members appointed by the governor for a term of seven years. The terms of office of original appointees shall be staggered so the term of one member expires each year. In the event of a vacancy on the board, the governor shall appoint a replacement for the unexpired term. The members of the tax appeals board shall receive fifty dollars for each day actually engaged in the service of the board and shall be paid actual and necessary expenses as approved by the chairman at the same rates as state employees and officials. The board shall annually select one of its members as chairman, who shall be responsible for administering the provisions of this Act. The chairman shall select any three members of the board to sit on each appeal brought under the provisions of this Act, provided that no member who is an elected or appointed official or employee of any county or political subdivision shall be eligible to serve on an appeal in which his county or any political subdivision therein is a party.

SECTION 2. APPEAL FROM DECISION OF COUNTY COMMISSIONERS - NOTICE OF APPEAL - FILING FEE - NOTICE - PROCEDURE - APPEAL TO DISTRICT COURT.) Any person or governing body of a political subdivision aggrieved by a decision of the board of county commissioners subsequent to a hearing held pursuant to section 57-23-06 may appeal the decision to the tax appeals board. The appeal shall be filed within thirty days of the date of the mailing of the decision of the board of county commissioners by filing a notice of appeal with the county auditor, who shall

forward it to the chairman of the tax appeals board. The notice of appeal shall state the grounds relied upon for the appeal and shall be in such form as the tax appeals board may require.

Each notice of appeal shall be accompanied by a filing fee of twenty dollars, which fee shall be deposited by the chairman in a special clearing fund in the state treasury. Such fee shall constitute prepayment of costs and shall be returned or refunded to the appellant in the event the board determines that he is entitled to relief, in whole or in part. Such amounts as may be needed for such refunds are hereby appropriated, as a continuing appropriation, from the special clearing fund for this purpose. Upon request of the chairman of the tax appeals board, the director of the department of accounts and purchases shall periodically transfer such amounts as are not needed for refunds to the general fund.

The chairman of the tax appeals board shall give the appellant and the board of county commissioners notice by mail of the time and place of hearing not less than ten days prior to the hearing, and the county commissioners shall notify the head of the governing body of each political subdivision affected by the appeal of the hearing. The hearing shall be held by any three members of the tax appeals board not more than ninety days following the filing of the notice of appeal. The appellant may appear before the tax appeals board in person or by his representative or attorney, and may present evidence bearing on the appeal. He shall furnish any additional information or evidence reasonably requested by the tax appeals board. Any person representing the governing body of the county, city, township, or other political subdivision, and any representative of the state tax department, may appear as witnesses at the hearing.

The board may abate or order the refund of, in whole or in part, any assessment or tax upon real or personal property for any of the grounds provided for in section 57-23-04. The board shall notify the parties of its decision no later than thirty days after the hearing. Any party aggrieved by a decision of the tax appeals board may appeal to the district court. The state tax commissioner and any taxing district which has levied a tax which will be affected by the action shall be made a party in the appeal to district court.

SECTION 3. AMENDMENT.) Section 57-20-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-20. PAYMENT OF TAX UNDER PROTEST.) Any person against whom any tax is levied, or who may be required to pay the same, may pay such tax under protest to the county treasurer, by giving notice in writing to such treasurer at the time of payment, specifying the reasons for such protest, and thereafter, within sixty days, he may apply in writing to the board of county commissioners for an abatement, adjustment, or refund

of taxes thus paid, or any portion thereof, and if such application is rejected, in whole or in part, or if the board fails to act upon his application within sixty days, it shall notify the applicant of the disposition of his application and of his right to appeal to the tax appeals board as provided by law. The application to the board of county commissioners shall show the post-office address of the taxpayer and notice to such address by registered or certified mail shall be sufficient service of the notice of rejection or approval of the taxpayer's application.

SECTION 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 tax appeals board 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, regardless of whether or not such taxes were paid under protest, oral or written.

SECTION 5. AMENDMENT.) Section 57-23-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-04. COUNTY COMMISSIONERS MAY ABATE OR REFUND TAXES.) Upon application filed in the office of the county auditor on or before November first of the year following the year in which the tax becomes delinquent, as in this chapter provided, the board of county commissioners may abate or refund, in whole or in part, any assessment or tax upon real or personal property, in the following cases:

1. When an error has been made in any identifying entry or description of the property, in entering the valuation thereof, or in the extension of the tax, to the injury of the complainant.
2. When improvements on any real property were considered or included in the valuation thereof which did not exist thereon at the time fixed by law for making the assessment.

3. When the complainant, or the property, is exempt from the tax.
4. When the complainant had no taxable interest in the property assessed against him at the time fixed by law for making the assessment.
5. When taxes have been erroneously paid, or errors made in noting payment, or in issuing receipts therefor.
6. When the same property has been assessed against the complainant more than once in the same year, and the complainant produces satisfactory evidence that the tax thereon for such year has been paid.
- * 7. When any building, structure, or other improvement or tangible personal property has been destroyed or injured by fire, flood, or tornado; provided that proper adjustment has not been made by the assessor pursuant to subsection 4 of section 57-02-11. No abatement or refund shall be made under this subsection on account of damages covered by insurance or damages amounting to less than one hundred dollars, and the abatement or refund shall be granted only for that part of the year remaining after the property was damaged or destroyed.
8. When the assessment on the complainant's property is invalid, inequitable, or unjust.

SECTION 6. AMENDMENT.) Section 57-23-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-08. DUTIES OF COUNTY AUDITORS AND COUNTY COMMISSIONERS AFTER ABATEMENT ACTIONS.) After the granting of any application for abatement or refund or compromise of any tax, the county auditor shall correct all tax lists in accordance with the order of abatement or compromise, and the applicant shall be relieved of further liability for the tax abated or compromised. If the board of county commissioners disapproves any application for abatement or refund or compromise, in whole or in part, the reasons for disapproval shall be stated thereon and the applicant may appeal the rejection of the application for abatement or refund or compromise to the tax appeals board within thirty days from the date of the mailing of the notice of rejection. The county auditor, at the close of each calendar year, shall certify to the director of the state department of accounts and purchases the amount of state taxes canceled by action of the board of county commissioners or the tax appeals board and the same shall be credited to the county.

SECTION 7. REPEAL.) Section 57-23-11 of the North Dakota Century Code is hereby repealed.

SECTION 8. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$52,200.00, or so much thereof as may be necessary, to the tax appeals board for the purpose of administering the provisions of this Act for the biennium beginning July 1, 1973, and ending June 30, 1975.

Approved March 28, 1973

*NOTE: Subsection 7 of section 57-23-04 was also amended by section 1 of Senate Bill No. 2342, chapter 458.

CHAPTER 460

HOUSE BILL NO. 1312
(K. Johnson)

COSTS OF NOTICES OF TAX SALES

AN ACT to amend and reenact subsection 4 of section 57-24-03, section 57-24-07, subsection 2 of section 57-24-12, and section 57-28-06 of the North Dakota Century Code, relating to advertising costs of notice of sale of land for delinquent taxes, and to the cost of publication of notice of expiration of redemption period.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 57-24-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. It shall contain the name of the owner of each lot or tract, as shown by the tax records, the description of such lot or tract, and the total amount of taxes, penalties, interest, and cost and expense of advertising such lot or tract.

SECTION 2. AMENDMENT.) Section 57-24-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-24-07. COUNTY AUDITOR TO GIVE NOTICE OF TAX SALE BY PUBLICATION.) The county auditor shall give notice of the delinquent real estate tax sale by publishing in the official newspaper of the county a notice, over his signature, published once each week for two successive weeks, the first publication to be made at least fourteen days prior to such sale. Each notice shall contain the information that all lands upon which taxes for the preceding year remain unpaid will be sold, and shall state the time and place of sale. The notice shall not contain the name of the owner of any lot or tract, nor the description thereof, but it shall state that a list of all lands subject to such sale is on file and may be examined at the office of the county auditor, and that a copy of such list with names of the owners and descriptions of the lands or tracts involved, and the total amount of taxes, penalties, interest, and cost of advertising, has been posted in the office of the county auditor and in four or more public places in the county, giving the name and location of such places of posting.

SECTION 3. AMENDMENT.) Subsection 2 of section 57-24-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Before any tract or parcel of land is offered for sale, the auditor shall announce the total amount of taxes, penalties, interest, and cost of advertising the same for sale, and the part representing personal property taxes, if any, extended against such land;

SECTION 4. AMENDMENT.) Section 57-28-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-28-06. SERVICE OF NOTICE BY PUBLICATION.) The county auditor, on or before August first of each year, shall serve notice of the expiration of the period of redemption by publication as to all tracts of real estate upon which such notice is served by registered or certified mail. Such notice may include any number of parcels of real estate, and only one heading shall be necessary for the entire list. The auditor shall include in the amounts stated in such notice the cost of publication of the notice. Such notice shall be published once before August first in the official newspaper of the county wherein such real estate is situated.

Approved March 14, 1973

CHAPTER 461

SENATE BILL NO. 2300
(Wright)

DEFINITION OF TELEPHONE COMPANY

AN ACT to amend and reenact subsection 1 of section 57-34-01 of the North Dakota Century Code, relating to the definition of a telephone company for taxation purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 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 cooperative 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 provided that each city served has a population of two thousand five hundred persons or less; and

Approved March 11, 1973

CHAPTER 462

SENATE BILL NO. 2064
(Freed)

ESTATE TAX DEDUCTIONS

AN ACT to amend and reenact subsection 10 of section 57-37-11 and section 57-37-12 of the North Dakota Century Code, relating to estate tax deductions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 10 of section 57-37-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. Federal estate taxes paid and not refunded, except that when part of the property of the decedent's estate has a situs outside of North Dakota, the amount of such federal estate taxes that may be deducted shall be such percentage thereof as the value of the property, above liens, in the decedent's gross estate in this state is to the value of all of the property, above liens, of the estate within and outside this state;

SECTION 2. AMENDMENT.) Section 57-37-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-12. ADDITIONAL RULES FOR DETERMINING NET ESTATE.) In determining the net estate, the following rules, so far as applicable, shall be used in addition to the provisions of section 57-37-11:

1. If decedent was a nonresident and the situs of a part of the property of the estate is outside this state, no part of the debts of decedent, nor of taxes other than real estate taxes and federal estate taxes, nor funeral and monument expenses, shall be deductible from the gross estate, but if the aggregate amount of debts, taxes other than real estate taxes and federal estate taxes, and funeral and monument expenses, shall exceed the value of the personalty not taxable in this state, there shall be deducted from the gross estate in this state such percentage thereof as the value of the property in this state, above liens, is of the value of all the property of the estate above liens; provided

that if the place of burial of such decedent is in North Dakota, the funeral and monument expenses paid therefor shall be deductible as provided in subsection 12 of section 57-37-11; federal estate taxes shall be deductible from the gross estate only as provided in subsection 10 of section 57-37-11;

2. If the decedent was a resident of this state and the situs of part of the property of the estate is outside this state, debts, taxes other than real estate taxes and federal estate taxes, and funeral and monument expenses, shall be deductible from the gross estate in this state unless the aggregate thereof exceeds the value of the personalty taxable in this state, in which case only such percentage thereof may be deducted as the value of the property in this state, above liens, is of the value of all the property of the estate above liens; federal estate taxes shall be deductible from the gross estate only as provided in subsection 10 of section 57-37-11;
3. If a part only of the property of an estate is taxable in this state, only such commissions, attorney's fees, and costs of administration may be deducted as are occasioned by administration within this state;
4. If a part only of the property of the estate is taxable within this state, there shall be allowed and deducted as exemptions only such percentage of the amounts of exemptions herein specified as the property taxable within this state, above liens, is of all the property of the estate above liens;
5. Past due real estate taxes and past due special assessments may be deducted, in any circumstance, only to the extent that they are liens upon real estate within this state.

Approved February 14, 1973

CHAPTER 463

HOUSE BILL NO. 1334
(Kretschmar)

ALTERNATE VALUATION DATE FOR
ESTATE TAX PURPOSES

AN ACT to amend and reenact subsection 3 of section 57-37-21 of the North Dakota Century Code, relating to alternate valuation date for estate tax purposes, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 of section 57-37-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. a. As an alternate method of valuation, the value of the gross estate may be determined, if the executor, administrator, trustee, or other person responsible for obtaining a determination of the tax imposed by this chapter, so elects, by valuing all the property included in the gross estate as follows:
 - (1) In the case of property distributed, sold, exchanged, or otherwise disposed of, within six months after the decedent's death such property shall be valued as of the date of distribution, sale, exchange, or other disposition.
 - (2) In the case of property not distributed, sold, exchanged, or otherwise disposed of, within six months after the decedent's death such property shall be valued as of the date six months after the decedent's death.
 - (3) Any interest or estate which is affected by mere lapse of time shall be included at its value as of the time of death, instead of the later date, with adjustment for any difference in its value as of the later date not due to mere lapse of time.
- * b. Special rules for valuing property under the alternate method are: No deduction under this chapter of any item shall be allowed if allowance for such item is in effect given by the

*NOTE: Subdivisions b and c of subsection 3 of section 57-37-21 were also amended by section 63 of House Bill No. 1040, chapter 257.

alternate valuation provided by this section. Wherever in any other subsection or section of this chapter reference is made to the value of property at the time of the decedent's death, such reference shall be deemed to refer to the value of such property used in determining the value of the gross estate. In case of an election made by the executor under this section, then

- (1) for the purposes of the deductions provided in subsection 3 of section 57-37-11, any bequest, legacy, devise, or transfer enumerated therein, and
- (2) for the purpose of the marital deduction, the exemption provided in subsection 2 of section 57-37-11, any interest in property passing to the surviving spouse shall be valued as of the date of the decedent's death with adjustment for any difference in value, not due to mere lapse of time or the occurrence or nonoccurrence of a contingency, of the property as of the date six months after the decedent's death, substituting, in the case of property distributed by the executor, administrator, or trustee, or sold, exchanged, or otherwise disposed of, during such six month period, the date thereof.

- * c. The election provided for in this subsection shall be exercised by the executor, administrator, trustee, or other person responsible for obtaining a determination of the tax imposed by this chapter, on his return if filed within fifteen months after the date of the decedent's death.

SECTION 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 10, 1973

CHAPTER 464

HOUSE BILL NO. 1304
(Rice)

DISTRIBUTION OF ESTATE TAXES

AN ACT to amend and reenact subsections 2 and 3 of section 57-37-24 of the North Dakota Century Code, relating to collection and distribution of estate taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 2 and 3 of section 57-37-24 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. The county treasurer shall pay over to the state treasurer thirty-five percent of such tax, and the balance of sixty-five percent of such tax is hereby appropriated and shall be distributed by the county treasurer collecting the same among the counties or cities in which any part of the decedent's property was located at the time of the decedent's death. If any part of decedent's property at the time of the decedent's death had a legal situs within the limits of a city, the share of tax based on such property shall be divided between the city and the county in proportion to their respective total mill levies, except school levies. If any part of decedent's property had a legal situs outside the limits of a city, the share of tax based on said property shall go entirely to the county. If the tax determined to be due pursuant to this chapter is an amount which is one hundred dollars or less, after the deduction of the share payable to the state, no further apportionment pursuant to this section shall be made and the entire amount due shall be retained by the county in which the county court therein had jurisdiction of the estate tax matter. Any prorated share, in the amount of five dollars or less, shall be added to the share of the remitting county. The city or county share of the tax shall be deposited to the credit of its general fund.
3. In all cases wherein no county court has jurisdiction, the amount of the tax shall be determined and collected by the tax commissioner, and the state treasurer shall

receive the amount collected from the tax commissioner, deposit thirty-five percent of the amount received to the credit of the general fund of the state and apportion the remaining sixty-five percent thereof to the respective county treasurers of the counties in which is located the legal situs of the property base of such tax, who in turn shall then distribute the tax received in the same manner and amounts as if the tax had been originally collected by said county treasurer, to the county or city, as the case may be. If the tax determined to be due pursuant to this chapter is in an amount which is one hundred dollars or less, after the deduction of the share payable to the state, no further apportionment pursuant to this section shall be made and the entire amount determined to be due shall be distributed to the county in which the legal situs of the property is located.

Approved March 21, 1973

CHAPTER 465

HOUSE BILL NO. 1537
(Streibel, Strinden)
(Committee on Delayed Bills)

FOOD SALES TAX EXEMPTION AND
INCOME TAX REFORM

AN ACT to amend and reenact subsection 21 of section 57-38-01, and sections 57-38-29, 57-39.2-03.2, 57-39.2-04.1, 57-40.2-03.2, and 57-40.2-04.1 of the North Dakota Century Code, relating to income tax definitions and rates on individuals, and providing for the exemption of food and food products from the sales and use tax; providing for an effective date; and providing for the nonseverability of the sections of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

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

21. a. "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, 1972.
- b. Those provisions of the United States Internal Revenue Code of 1954, as amended, which are adopted for the purposes of this chapter and which apply to returns required to be filed under that Code for the calendar year 1972 and for fiscal years ended during 1972 shall also apply to returns required to be filed under the provisions of this chapter for the same periods.

SECTION 2. AMENDMENT.) Section 57-38-29 of the North Dakota Century Code 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 three thousand dollars, a tax of two percent;
3. On taxable income in excess of three thousand dollars and not in excess of five thousand dollars, a tax of three percent;
4. On taxable income in excess of five thousand dollars and not in excess of six thousand dollars, a tax of five percent;
5. On taxable income in excess of six thousand dollars and not in excess of eight thousand dollars, a tax of seven and one-half percent;
6. On taxable income in excess of eight thousand dollars, a tax of ten percent.

SECTION 3. AMENDMENT.) Section 57-39.2-03.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-03.2. SALES TAX ON ALCOHOLIC BEVERAGES AND TOBACCO PRODUCTS.) Notwithstanding any other provision of law, the sales taxes imposed by this chapter shall apply to the gross receipts of retailers from all sales at retail beginning July 1, 1973, of alcoholic beverages as defined in section 5-01-01, whether mixed or unmixed at the time of sale or thereafter, and whether sold for consumption on the premises or through off-sale outlets for consumption off the premises, and cigarettes, cigars, and other tobacco products, provided that gross receipts from the sale thereof shall mean and include any other taxes imposed on such merchandise or its use or on the retail or other sale thereof.

SECTION 4. AMENDMENT.) Section 57-39.2-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-04.1. SALES TAX EXEMPTION FOR FOOD AND FOOD PRODUCTS.) Beginning July 1, 1973, gross receipts from sales for human consumption of food and food products including but not limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, poultry and fish and other fresh and salt-water animal products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products

including candy and confectionary products, chewing gum, coffee and coffee substitutes, tea, cocoa and cocoa products, and carbonated beverages when purchased by consumers for consumption off the premises where purchased, shall be exempt from the sales tax imposed by chapter 57-39.2. "Food" and "food products" as used herein shall not include any alcoholic beverages or mixed drinks made therefrom, bottled water, or medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

SECTION 5. AMENDMENT.) Section 57-40.2-03.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-03.2. USE TAX ON ALCOHOLIC BEVERAGES AND TOBACCO PRODUCTS.) Notwithstanding any other provision of law, the use taxes imposed by this chapter shall apply to the storage, use, or consumption in this state beginning July 1, 1973, of alcoholic beverages as defined in section 5-01-01, whether mixed or unmixed at the time of sale or thereafter, and whether sold for consumption on the premises or through off-sale outlets for consumption off the premises, and cigarettes, cigars, and other tobacco products, provided that gross receipts from the sale thereof shall mean and include any other taxes imposed on such merchandise or its use or on the retail or other sale thereof.

SECTION 6. AMENDMENT.) Section 57-40.2-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-04.1. USE TAX EXEMPTION FOR FOOD AND FOOD PRODUCTS.) Beginning July 1, 1973, gross receipts from sales for human consumption of food and food products including but not limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, poultry and fish and other fresh and salt-water animal products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products including candy and confectionary products, chewing gum, coffee and coffee substitutes, tea, cocoa and cocoa products, and carbonated beverages when purchased by consumers for consumption off the premises where purchased, shall be exempt from the use tax imposed by chapter 57-40.2. "Food" and "food products" as used herein shall not include any alcoholic beverages or mixed drinks made therefrom, bottled water, or medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

SECTION 7. EFFECTIVE DATE.) The provisions of section 1 and 2 of this Act shall be effective for all taxable years beginning on or after January 1, 1973.

SECTION 8. NONSEVERABILITY OF SECTIONS.) None of the provisions of this Act shall become effective if for any reason any other provision of this Act does not become effective, nor shall any of the provisions of this Act continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly, that would cause it to become ineffective.

Approved March 30, 1973

CHAPTER 466

HOUSE BILL NO. 1220
(Dornacker)

INCOME TAX DEDUCTION FOR
BUSINESS PRIVILEGE TAX

AN ACT to amend and reenact subdivision f of subsection 1 of section 57-38-01.2 of the North Dakota Century Code, relating to adjustments to taxable income for individuals and fiduciaries; to amend and reenact subdivision d of subsection 1 of section 57-38-01.3 of the North Dakota Century Code, relating to adjustments to taxable income for corporations; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subdivision f of subsection 1 of section 57-38-01.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- f. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income. However, those taxes, paid or accrued as the case may be during the applicable tax year, imposed by section 57-38-66 of this chapter shall be allowable as a deduction when determining taxable income for state income tax purposes.

SECTION 2. AMENDMENT.) Subdivision d of subsection 1 of section 57-38-01.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- d. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income. However, those taxes, paid or accrued as the case may be during the applicable tax year, imposed by section 57-38-66 of this chapter shall be allowable as a deduction when determining taxable income for state income tax purposes.

SECTION 3. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1973.

Approved March 12, 1973

CHAPTER 467

SENATE BILL NO. 2196
(Lips)

RETIREMENT INCOME TAX EXEMPTION

AN ACT to amend and reenact subdivision j of subsection 1 of section 57-38-01.2 of the North Dakota Century Code, relating to adjustments to taxable income for income received under the United States Civil Service Retirement Act, firemen's relief associations, and policemen's pension funds, and providing a limitation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subdivision j of subsection 1 of section 57-38-01.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- j. Reduced by any amount, up to a maximum of five thousand dollars, received pursuant to the United States Civil Service Retirement Act, firemen's relief associations authorized by chapters 18-05 and 18-11, or policemen's pension funds authorized by chapter 40-45, provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the Federal Social Security Act.

Approved March 27, 1973

CHAPTER 468

HOUSE BILL NO. 1429
(Wilkie, Dornacker)

MILITARY PAY INCOME TAX EXEMPTION

AN ACT to create and enact a new subdivision to subsection 1 of section 57-38-01.2 of the North Dakota Century Code and to repeal section 57-46-01 of the North Dakota Century Code, relating to military income exempt from the income tax; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) A new subdivision to subsection 1 of section 57-38-01.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Reduced by any amount, up to a maximum of one thousand dollars, received by any person as payment for services performed while on active duty in the armed forces of the United States or as payment for attending periodic training meetings for drill and instruction as a member of the national guard or of a reserve unit of the armed forces of the United States.

SECTION 2. REPEAL.) Section 57-46-01 of the North Dakota Century Code is hereby repealed effective for all taxable years beginning on or after January 1, 1973.

SECTION 3. EFFECTIVE DATE.) The provisions of this Act shall apply to income received in taxable years beginning after December 31, 1972.

Approved March 27, 1973

CHAPTER 469

SENATE BILL NO. 2307
(Anderson, Coughlin, Jacobson, Rait)

CROP INSURANCE PROCEEDS

AN ACT to provide an option to postpone the reporting of crop insurance proceeds for income tax purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. CROP INSURANCE PROCEEDS - OPTION TO POSTPONE FOR INCOME TAX PURPOSES.) A taxpayer reporting on the cash receipts and disbursements method of accounting who receives insurance proceeds as the result of destruction or damage to crops may elect to include such proceeds in income for the taxable year following the taxable year of destruction or damage if he establishes that, under his practice, income from such crops would have been reported in a following taxable year. An election under this Act for any taxable year may be made only if the taxpayer makes a similar election on his federal return for the taxable year in question.

Approved March 3, 1973

CHAPTER 470

HOUSE BILL NO. 1440
(Dornacker)

CORPORATE INCOME TAX
CREDITS FOR NEW INDUSTRY

AN ACT to amend and reenact section 57-38-30.1 of the North Dakota Century Code, relating to corporate income tax credits for new industry.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-38-30.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-30.1. CORPORATE TAX CREDIT FOR NEW INDUSTRY.) For the purpose of providing a tax incentive to new industry in this state, any domestic corporation that has been incorporated for the first time in this state after January 1, 1969, and which is not the result of a business reorganization or acquisition, or any foreign corporation that has received a certificate of authority to transact business in this state for the first time after January 1, 1969, shall be entitled to receive the corporate tax credit allowed by this section by complying with the provisions herein, provided that corporations receiving any property tax or income tax exemption allowed by chapter 40-57 or chapter 40-57.1, or reorganized corporations that were in existence prior to January 1, 1969, shall not be allowed the credit. The credit shall consist of a deduction from the net tax as computed under section 57-38-30 of one percent of the annual gross amount expended by the corporation for salaries and wages within the state of North Dakota for each of the first three taxable years, and a deduction from the net tax as computed under section 57-38-30 of one-half of one percent of the annual gross amount expended by the corporation for salaries and wages within the state of North Dakota for each of the fourth and fifth taxable years. After the fifth taxable year, no further deduction shall be allowed, and the corporation shall be taxed in accordance with the schedule provided in section 57-38-30 without credit. For the purpose of this section, new industry shall be defined as a corporate enterprise engaged in assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured products or any combination thereof.

Approved March 8, 1973

CHAPTER 471

SENATE BILL NO. 2323
(Butler)

SURTAX ON INCOME

AN ACT to amend and reenact section 57-38-30.2 of the North Dakota Century Code, relating to the surtax on income, providing for an effective date, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-38-30.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-30.2. SURTAX ON INCOME.) An additional tax, or surtax, is hereby imposed on the income of every individual, estate, trust, and corporation that is required to file an income tax return pursuant to the provisions of chapter 57-38. This surtax shall be placed on the state income tax return as a separate line item entitled "Vietnam bonus surtax", shall be paid annually by each such taxpayer, and shall be computed as follows:

1. For an individual, estate, or trust the tax shall be computed at the rate of one percent of the taxable income of such individual, estate, or trust as determined pursuant to the provisions of chapter 57-38, but shall not be less than two dollars and fifty cents nor more than twelve dollars and fifty cents, provided that the surtax herein imposed on the income of a trust shall be imposed only on a trust having "taxable income" as defined in section 57-38-01.
2. For a corporation the tax shall be computed at the rate of one percent of the taxable income of the corporation as determined pursuant to the provisions of chapter 57-38, provided that the amount of tax shall not be less than ten dollars nor more than twenty-five dollars.

For purposes of administering the provisions of this section, the provisions of chapter 57-38, pertaining to the administration of income tax, including but not limited to the withholding

of income taxes, the payment of income taxes and interest and penalties thereon, refunds, attachment of liens for failure to pay such taxes and interest and penalties thereon, and civil and criminal penalties for failure to comply with the provisions of chapter 57-38, shall govern the administration of the surtax levied in this section. All of the proceeds of this surtax, including penalties and interest thereon, collected and received by the tax commissioner shall be paid by him into the sinking fund established for the payment of bonds issued under chapter 54-17.1. When the director of the department of accounts and purchases shall determine, in consultation with the industrial commission, that sufficient funds are available in the sinking fund for the payment of Vietnam veterans' bonus bonds to retire all bonds outstanding with interest thereon, he shall certify the same to the tax commissioner, whereupon the surtax imposed by this section shall terminate and the last taxable year of each taxpayer that ends before such certification shall be the last taxable year for which the tax shall be imposed on and collected from such taxpayer.

The provisions of this section shall be effective for all taxable years beginning on or after January 1, 1972.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1972.

SECTION 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 19, 1973

CHAPTER 472

HOUSE BILL NO. 1201
(Committee on Finance and Taxation)
(At the request of the Tax Department)

INCOME TAX PROCEDURES

AN ACT to amend and reenact section 57-38-34 and subsection 3 of section 57-38-57 of the North Dakota Century Code, relating to provisions of the income tax law.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-38-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-34. TIME AND PLACE OF FILING RETURNS - INTEREST ON TAX WHEN TIME FOR FILING IS EXTENDED.)

1. Returns shall be in such form as the tax commissioner from time to time may prescribe, and shall be filed with the tax commissioner at his office in Bismarck, North Dakota. The tax commissioner shall prepare blank forms for use in making returns and shall cause them to be distributed throughout this state, but failure to receive or secure a form shall not relieve a taxpayer from making a return.
2. Returns made on the basis of the calendar year shall be filed on or before the fifteenth day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the fifteenth day of the fourth month following the close of the fiscal year.
3. Returns for cooperatives, however, made on the basis of the calendar year shall be filed on or before the fifteenth day of September following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the fifteenth day of the ninth month following the close of the fiscal year.
4. A taxpayer actively serving in the armed forces or merchant marine, outside the boundaries of the United States, may defer the filing of an income tax return

and the payment of the income tax until such time as the federal income tax return is required to be filed at which time the state income tax return, with payment of tax, will also be due. No interest or penalty shall accrue to the date of such filing.

5. The tax commissioner may grant a reasonable extension of time for filing a return when, in his judgment, good cause exists. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest on the tax at the rate of six percent per annum from the date the tax would have been due if the extension had not been granted to the date the tax is paid.

SECTION 2. AMENDMENT.) Subsection 3 of section 57-38-57 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The tax commissioner, however, may permit the commissioner of internal revenue of the United States, or the proper officer of any state or of the District of Columbia or of any territory of the United States, imposing an income tax similar to that imposed by this chapter, or the authorized representative of either such officer or the authorized agent of the multistate tax commission, to inspect the income tax returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract or copy of the return of income of any taxpayer, or supply him with information concerning any item contained in any return, or disclosed by the report of any investigation of the income, or return of income, of any taxpayer, but such permission shall be granted, or such information furnished, to such officers or representatives only if the statutes of the United States, or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter.

Approved March 21, 1973

CHAPTER 473

HOUSE BILL NO. 1324
(Dornacker)

INCOME TAX PAYMENTS IN
QUARTERLY INSTALLMENTS

AN ACT to amend and reenact section 57-38-36 of the North Dakota Century Code, relating to the payment of income tax in quarterly installments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-38-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-36. WHEN PAYMENT OF TAX MAY BE MADE IN QUARTERLY INSTALLMENTS.) If the total tax exceeds one hundred dollars it may be paid in quarterly installments, and if paid in such installments, the first installment shall be paid at the time fixed by this chapter for filing the return, the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month after the time fixed by law for filing the return. Interest at the rate of eight percent per annum shall be charged on all unpaid installment balances during the period from the date fixed by this chapter for filing the return and the date payment of the installment is due. If a taxpayer elects under the provisions of this section to pay the tax in installments, any installment may be paid prior to the date prescribed for its payment. If an installment is not paid in full on or before the date fixed for its payment the whole amount of the unpaid tax shall be paid upon notice and demand from the tax commissioner, and penalty and interest, as provided in sections 57-38-43* and 57-38-45, shall attach, from and after the time of the failure to make such timely payment, to the whole amount of the unpaid tax.

Filed March 13, 1973

Not approved or disapproved by the Governor

CHAPTER 474

HOUSE BILL NO. 1176
(Committee on Finance and Taxation)
(From Tax Department)

INCOME TAX AUDITS AND
ASSESSMENTS

AN ACT to amend and reenact subsections 2 and 5 of section 57-38-38 of the North Dakota Century Code, relating to the audit of returns and assessment of tax by the tax commissioner; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 2 and 5 of section 57-38-38 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. If a taxpayer understates his taxable income as computed by this chapter by twenty-five percent of the amount properly determined thereof, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without such assessment, at any time within six years after the due date of the return, or six years after the return was filed, whichever period expires later;
5. a. If the amount of taxable income for any year of any taxpayer as returned to the United States Treasury Department is changed or corrected by the commissioner of Internal Revenue or other office of the United States or other competent authority, or where a renegotiation of a contract or subcontract within the United States results in a change in taxable income, such taxpayer shall report such changed or corrected income, or the results of such renegotiation, within ninety days after the final determination of such change or correction or renegotiation, by filing an amended state income tax return, or such other information as required by the tax commissioner and shall concede the accuracy of such determination or state wherein it is erroneous.
- b. Any taxpayer filing an amended return with such department as set forth above shall also file within ninety days thereafter an amended state income tax return with a copy of such federal

amended return with the tax commissioner.

- c. Any taxpayer who consents to an extension of time for the assessment of taxes with the Internal Revenue Service shall within thirty days notify the tax commissioner of the execution of such consent and shall be presumed to have consented to a similar extension of time for the assessment of state income tax with the state tax commissioner.
- d. Failure to report such changed or corrected federal taxable income or to file amended state income tax returns with a copy of such amended federal return or notify the tax commissioner of the execution of such consent as set forth above and within the time stated shall suspend the running of the period of limitation for making an additional assessment for state income tax purposes until six months following the filing of such return or consent with the tax commissioner;

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all income tax returns filed on or after January 1, 1973.

Approved March 12, 1973

CHAPTER 475

SENATE BILL NO. 2281
(Lee)

PRESERVATION OF INCOME TAX LIENS

AN ACT to amend and reenact section 57-38-49 and subsections 4 and 5 of section 57-39.2-13 of the North Dakota Century Code, relating to preservation of liens.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-38-49 of the North Dakota Century Code is hereby amended and reenacted to read as followed:

57-38-49. PRESERVATION OF LIEN.) In order to preserve the lien provided in section 57-38-48 against subsequent mortgagees, purchasers or judgment creditors, for value and without notice of the lien, on any property situated in any county, the tax commissioner shall file with the register of deeds of the county in which said property is located, a notice of said lien. The register of deeds of each county shall prepare and keep in his office a book to be known as index of tax liens, so ruled as to show in appropriate columns the following data, under the names of taxpayers arranged alphabetically:

1. The name of the taxpayer;
2. The name "State of North Dakota" as claimant;
3. Time notice of lien was received;
4. Date of notice;
5. Amount of lien then due;
6. When satisfied.

The register of deeds shall endorse on each notice of lien the day, hour, and minute when received and shall preserve the same, and forthwith shall index said notice in the index book. Such lien shall be effective as against subsequent creditors, purchasers, and encumbrances from the time of the filing thereof. The register of deeds shall accept any such lien for filing and when it is received with no payment of fees or costs to be made on behalf of the tax commissioner.

SECTION 2. AMENDMENT.) Subsections 4 and 5 of section 57-39.2-13 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. The register of deeds of each county shall prepare and keep in his office a book known as "Index of Tax Liens", so ruled as to show in appropriate columns all of the following data, under the names of taxpayers, arranged alphabetically:

- a. The name of the taxpayer.
- b. The name "State of North Dakota" as claimant.
- c. Time notice of lien was received.
- d. Date of notice.
- e. Amount of lien when due.
- f. When satisfied.

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

5. The tax commissioner shall be exempt from the payment of the filing fees as otherwise provided by law for the filing of such lien, or for the satisfaction thereof.

Approved March 11, 1973

CHAPTER 476

HOUSE BILL NO. 1384
(Winge)

MINIMUM INCOME TAX REFUND

AN ACT to amend and reenact section 57-38-61 of the North Dakota Century Code, relating to which provisions of the income tax chapter are applicable to the withholding of income tax from the wages of nonresident employees and the amount of income tax withheld that can be refunded; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-38-61 of the North Dakota Century Code is hereby amended and reenacted 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 one dollar. 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.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective as to all income tax withheld from wages paid after December 31, 1972.

Approved March 12, 1973

CHAPTER 477

HOUSE BILL NO. 1202
(Committee on Finance and Taxation)
(At the request of the Tax Department)

LIABILITY OF PARTNERSHIPS FOR
BUSINESS PRIVILEGE TAX

AN ACT to amend and reenact subsection 1 of section 57-38-66 of the North Dakota Century Code, relating to the business privilege tax, and providing an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 57-38-66 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Each individual, estate, or trust required to file an income tax return pursuant to chapter 57-38 and each partnership required to file a partnership return pursuant to subsection 2 of section 57-38-42 who derives income from the operation of a business, trade, or profession, other than as an employee, shall pay a tax for the privilege of doing business in this state of one percent of the net income derived from the operation of such business, trade, or profession, but the minimum tax assessable to any one taxpayer shall be twenty dollars, which tax shall be a separate tax that is levied in addition to the taxes provided for in chapter 57-38. For the purposes of this subsection, the term "net income" means the gross income derived from such business, trade, or profession less the expenses of carrying on such business, trade, or profession, as computed for federal income tax purposes pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended; provided that in computing gross income and net income there shall not be taken into account any gain or loss from the sale or exchange of property used in the operation of a business, trade, or profession but not held for sale in the regular course thereof; provided, further, that the net income of an individual shall not include his distributive share as a partner in the earnings of any partnership on which the partnership is required to apply the tax rate provided for in this subsection.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall apply to all taxable years beginning on or after January 1, 1973.

Approved March 12, 1973

CHAPTER 478

SENATE BILL NO. 2311
(Butler)

SALES TAX ON CERTAIN AUCTION SALES

AN ACT to amend and reenact subsections 5 and 6 of section 57-39.2-01 of the North Dakota Century Code, relating to sales conducted at auction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 5 and 6 of section 57-39.2-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

5. "Retailer" includes every person engaged in the business or 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 admissions 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 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. For the purpose of this chapter retailer shall also include every clerk, auctioneer, agent or factor selling tangible personal property owned by any other retailer.

6. "Gross receipts" means the total amount of 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 further, however, that when tangible personal property is taken in trade or in a series of trades as a credit or part payment of a retail sale taxable under this chapter, if the tangible personal property traded in will be subject to the sales tax imposed by this chapter when sold or will be subject to the motor vehicle excise tax imposed by chapter 57-40.3, the credit or trade-in value allowed by the retailer shall not be regarded as gross receipts. Provided further, 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. For the purpose of this chapter gross receipts shall also include the total amount of sales of every clerk, auctioneer, agent or factor selling tangible personal property owned by any other retailer, and shall further include the total amount of sales of every clerk, auctioneer, agent or factor selling tangible personal property owned by any other person not a retailer if such tangible personal property owned by any other person who is not a retailer is sold at a sale where tangible personal property owned by a retailer is also sold.

CHAPTER 479

SENATE BILL NO. 2201
(Lips, Nasset)

SCHOOL SUPPLIES TAX EXEMPTION

AN ACT to amend and reenact subsection 5 of section 57-39.2-04 of the North Dakota Century Code, relating to the sales tax exemption upon the sale of books and school supplies to nonprofit institutions of higher learning.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 5 of section 57-39.2-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Gross receipts from sales of textbooks to regularly enrolled students of a private or public school and from sales of textbooks, yearbooks, and school supplies purchased by a private nonprofit elementary school, secondary school or any other nonprofit institution of higher learning conducting courses of study similar to those conducted by public schools in this state.

Approved March 28, 1973

CHAPTER 480

SENATE BILL NO. 2175
(Committee on Finance and Taxation)
(At the request of the Tax Department)

SALES TAX PROVISIONS

AN ACT to amend and reenact subsection 10 of section 57-39.2-04, sections 57-39.2-10, 57-39.2-15, 57-39.2-23 and 57-39.2-24 of the North Dakota Century Code, relating to the provisions of the sales tax law and providing for a penalty; and to repeal subsection 18 of section 57-39.2-04 and subsection 2 of section 57-39.2-17 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

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

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

SECTION 2. AMENDMENT.) Section 57-39.2-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-10. RECORDS REQUIRED - SALES FOR RESALE EXEMPT.)

1. 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 three years and three months 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. Whenever a retailer accepts in good faith a resale certificate at the time of making a sale, which sale would otherwise be subject to the sales tax, and such resale certificate contains the sales tax permit number of the purchaser, such retailer making the sale shall be relieved from submitting the sales tax

upon the purchase price of the merchandise sold.
Whenever a person submits a false resale certificate to a retailer the person submitting the certificate shall be personally liable for the tax on the sale.

SECTION 3. AMENDMENT.) Section 57-39.2-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-15. FAILURE TO FILE RETURN - INCORRECT RETURN.) If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient the commissioner shall determine the amount of tax due from such information as he may be able to obtain, and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by him, his stock on hand, and other factors. The commissioner shall give notice of such determination to the person liable for the tax. If the determination of tax due relates to an incorrect or insufficient return filed by a taxpayer, notice of such determination shall be given not later than three years after the last day on which the return was due or three years after the return was filed, whichever period expires later; notice of determination of tax due for any reporting period for which a taxpayer failed to file a return shall be given not later than six years after the due date of the return; where fraudulent information is given in a return or where the failure to file a return is due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax, the time limitation herein provided for giving notice of the determination of tax due shall not apply. Such determination of tax due shall fix the tax finally and irrevocably unless the person against whom it is assessed, within fifteen days after the giving of notice of such determination, shall apply to the commissioner pursuant to chapter 28-32 for a hearing or unless the commissioner of his own motion shall reduce the same. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the commissioner shall give notice of his decision to the person liable for the tax pursuant to the provisions of chapter 28-32.

SECTION 4. AMENDMENT.) Section 57-39.2-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-23. INFORMATION DEEMED CONFIDENTIAL - PENALTY.) It shall be unlawful for the commissioner, or any person having an administrative duty under this chapter, to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation or records and equipment of any person or corporation visited or examined in the discharge of official duty, or the amount or sources of income, profits, losses, expenditures or any particulars thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract of particulars thereof to be seen or examined by any person except as provided by law. The commissioner may authorize examination of such returns by other state officers, and at his discretion furnish to the tax officials of another

state, the multistate tax commission, the District of Columbia, the United States and its territories, any information contained in the tax returns and reports and related schedules and documents filed pursuant to this chapter, and in the report of an audit or investigation made with respect thereto, provided only that said information be furnished solely for tax purposes; and the multistate tax commission may make said information available to the tax officials of any other state, the District of Columbia, the United States and its territories for tax purposes. Any person violating the provisions of this section shall be guilty of a misdemeanor and punishable by a fine of not to exceed one thousand dollars.

The commissioner is hereby authorized to furnish to the workmen's compensation bureau or to the unemployment compensation division of the employment security bureau upon request of either a list or lists of holders of permits issued pursuant to the provisions of this chapter or chapter 57-40.2, together with the addresses and tax department file identification numbers of such permit holders, provided that any such list shall be used by the bureau to which it is furnished only for the purpose of administering the duties of such bureau. The commissioner, or any person having an administrative duty under this chapter, is hereby authorized to announce that a permit has been revoked.

SECTION 5. AMENDMENT.) Section 57-39.2-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-24. CORRECTION OF ERRORS.) If it shall appear that, as a result of a mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of this chapter, then such amount shall be credited against any tax due, or to become due, under this chapter from the person who made the erroneous payment, or such amount shall be refunded to such person, provided that the person who made the erroneous payment shall present a claim for refund or credit to the commissioner not later than three years after the due date of the return for the period for which the erroneous payment was made or one year after the erroneous payment was made, whichever is later.

SECTION 6. REPEAL.) Subsection 18 of section 57-39.2-04 and subsection 2 of section 57-39.2-17 of the North Dakota Century Code are hereby repealed.

Approved March 28, 1973

CHAPTER 481

SENATE BILL NO. 2099
(Committee on Finance and Taxation)
(From Tax Department)

NONRESIDENT SALES TAX EXEMPTION

AN ACT to amend and reenact subsection 12 of section 57-39.2-04 of the North Dakota Century Code, relating to exemption from sales tax of sales to residents of adjoining states and Canada.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 12 of section 57-39.2-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12. Gross receipts from all sales otherwise taxable under this chapter when made to persons who are residents of adjoining states which do not impose or levy a retail sales tax or are residents of Canada; provided that such persons are in the state of North Dakota for the express purpose of making such purchases, and not as tourists; and provided further that any such person furnish to the North Dakota retailer a certificate signed by him in such form as the tax commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless such certificate is furnished it shall be presumed, until the contrary is shown, that such person was not in the state of North Dakota for the express purpose of making such purchases; provided further that this exemption shall not apply to any sale to any person who is a resident of another state if the sales price is twenty-five dollars or less or to any person who is a resident of Canada if the sales price is twenty-five dollars or less.

Approved March 27, 1973

CHAPTER 482

SENATE BILL NO. 2280
(Wright, Page)

TAXATION OF MOTOR VEHICLE TRADE-INS

AN ACT to amend and reenact subsection 9 of section 57-40.3-01 of the North Dakota Century Code, to provide for the inclusion of certain motor vehicles used in the business of a dealer within the definition of trade-in for purposes of determining the purchase price for excise tax purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 9 of section 57-40.3-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. "Purchase price" means the total amount paid for the motor vehicle whether received in money or otherwise, provided, however, that when a motor vehicle or other tangible personal property that will be subject to a sales or use tax imposed by chapter 57-39.2 or chapter 57-40.2 when sold or used is taken in trade as a credit or as part payment on a motor vehicle taxable under this chapter, the credit or trade-in value allowed by the person selling the motor vehicle shall be deducted from the total selling price to establish the purchase price of the vehicle being sold and the trade-in allowance allowed by the seller on a motor vehicle accepted as a trade-in shall constitute the purchase price of a motor vehicle accepted as a trade-in. In instances in which a licensed motor vehicle dealer places into his service a new vehicle for the purpose of renting, leasing, or dealership utility service, the reasonable value of the vehicle replaced shall be included as trade-in value if the new vehicle is properly registered and licensed. "Purchase price" in those instances where the motor vehicle is acquired by gift or by any other transfer for a nominal or no monetary consideration, shall also include the average value of similar motor vehicles, established by standards and guides as determined by the motor vehicle registrar. "Purchase price" in those instances where a motor vehicle is manufactured by a person who registers it under the laws

of this state, shall mean the manufactured cost of such motor vehicle 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, manufactured costs shall mean the reasonable value of the completed motor vehicle. The term "purchase price" shall not include the transfer of a motor vehicle by way of gift between a husband and wife, parent and child, or brothers and sisters and shall not include the transfer of a motor vehicle between a lessee and lessor pursuant to the exercise of a right to purchase under a lease agreement, provided that the lessee has been in continuous possession of such vehicle for a period of one year or longer and further, provided that the lessor has paid either the tax imposed under this chapter at the time of titling or licensing the vehicle in this state or the excise tax imposed by chapter 57-40.2.

Approved March 8, 1973

CHAPTER 483

SENATE BILL NO. 2353
(Strand, Hoffner)

EXCISE TAX EXEMPTION FOR
INTERSTATE CARRIERS

AN ACT to amend and reenact section 57-40.3-04 of the North Dakota Century Code, relating to tax exemptions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-40.3-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.3-04. 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. 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.
2. Any motor vehicle which is expressly exempt from the title registration provisions of chapter 39-05.
3. Common carrier vehicles engaged exclusively in interstate commerce.
4. Any motor vehicle transferred without consideration to or from a person within thirty days prior to his entering into the armed services of the United States or within thirty days after discharge therefrom or while serving in the armed services of the United States, provided the person certifies to the motor vehicle registrar that the transfer is made only by reason of entering into, serving in or being discharged from the armed services of the United States.

Approved March 19, 1973

CHAPTER 484

SENATE BILL NO. 2387
(Solberg)

MOTOR VEHICLE EXCISE TAX
RECIPROCITY

AN ACT to amend and reenact section 57-40.3-09 of the North Dakota Century Code, relating to reciprocity given for taxes paid in another state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-40.3-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.3-09. CREDIT FOR EXCISE TAX PAID IN OTHER STATES - RECIPROCITY.) If any motor vehicle has been subjected already to a sales tax, use tax or motor vehicle excise tax by any other state, or political subdivision thereof, 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, or political subdivision thereof, upon the sale or use was computed. If the rate of tax imposed in such other state, or political subdivision thereof, is the same or more than the rate of tax imposed by this chapter, then no tax shall be due on such motor vehicle. The provisions of this section shall apply only if such other state, or political subdivision thereof, allows a credit with respect to the excise tax imposed by this chapter which is substantially similar in effect to the credit allowed by this section.

Approved March 8, 1973

CHAPTER 485

HOUSE BILL NO. 1028
(Backes, Dornacker, Dotzenrod,
Gackle, Hentges, K. Johnson, Wilkie)
(From Legislative Council Study)

NEGLECT OF DUTY BY
TAXING OFFICIALS

AN ACT to amend and reenact section 57-45-05 of the North Dakota Century Code, relating to neglect of duty by taxing officers and employees, and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-45-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-45-05. NEGLECT OF DUTY BY OFFICERS - PENALTY.) Every officer or employee of any political subdivision of this state who in any case knowingly neglects or refuses to perform any duty enjoined upon him by any provision in this title, or who consents to or connives at any evasion of the provisions of this title whereby any proceeding is prevented or hindered, shall be guilty of malfeasance in office, and shall be subject to removal from office. Any person aggrieved by the failure of any officer or employee to perform his duties as provided in this section may file a complaint, and it shall be the duty of the state's attorney to prosecute such violations. Any person convicted of malfeasance in office as provided in this section shall be subject to imprisonment in the county jail for not to exceed thirty days or a fine of not less than two hundred nor more than one thousand dollars. In addition to the criminal penalties herein provided, the state's attorney or any aggrieved party may proceed to obtain a writ of mandamus to compel performance by such officer or employee. Any failure of an officer or employee to do any act at the particular time specified in this title in no manner shall invalidate any tax levy, or any certificate of tax sale, or tax deed.

Approved March 21, 1973

CHAPTER 486

HOUSE BILL NO. 1243
(Dornacker)

GAS TAX REFUNDS

AN ACT to amend and reenact section 57-50-03 of the North Dakota Century Code, relating to claims for motor vehicle fuel tax refunds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-50-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-03. CLAIM FOR REFUND - LIMITATION ON FILING.) A refund claim must be filed, for all motor vehicle fuel purchases during a calendar year, on or after January first and before October first of the year next following, or the claim for refund shall be barred. However, any claim for refund may be filed in the calendar year of motor vehicle fuel purchase when:

1. The business is being discontinued;
2. No further purchases subject to fuel tax refund will be made in the remainder of the calendar year; or
3. The claim for refund exceeds one thousand dollars.

No claim for refund shall be made or approved unless the amount of the claim is in excess of ten dollars.

Approved March 19, 1973

CHAPTER 487

SENATE BILL NO. 2177
(Committee on Finance and Taxation)
(At the request of the Tax Department)

FUEL TAX PROVISIONS

AN ACT to create and enact sections 57-52-10.1 and 57-54-07.1; to amend and reenact subsections 5 and 8 of section 57-52-03, sections 57-52-12, 57-52-19, subsection 4 of section 57-53-01, sections 57-53-05, 57-53-08, 57-54-03, 57-54-07, 57-54-11, 57-54.1-15 and 57-56-02 of the North Dakota Century Code, relating to provisions of the motor fuel, special fuels, importers for use, aviation fuel and motor fuel tax refunds; and providing for a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) Section 57-52-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-52-10.1. TAX COMMISSIONER TO AUDIT RETURNS AND ASSESS
TAX.)

1. Except as otherwise provided in this subsection and subsections 2, 3 and 4 of this section, the tax commissioner may proceed to audit the returns of special fuel dealers and, not later than three years after the due date of the return, or three years after the return was filed, whichever period expires later, assess the tax and, if any additional tax is found due, shall notify the taxpayer in detail as to the reason for the increase;
2. If a special fuel dealer omits from a return a gallonage amount properly includable therein which is in excess of twenty-five percent of the amount of gallonage stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without such assessment, at any time within six years after the due date of the return, or six years after the return was filed, whichever period expires later;
3. Where false or fraudulent information is given in the return, or where the failure to file a return is due to the fraudulent intent or the willful attempt of the taxpayer in any manner to evade the tax, the time limitations in this section shall

not apply, and the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without such assessment, at any time; and

4. Where before the expiration of the time prescribed in subsections 1 and 2 for the assessment of tax, the tax commissioner and the taxpayer consent in writing to an extension of time for the assessment of the tax, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

SECTION 2.) Section 57-54-07.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-54-07.1. TAX COMMISSIONER TO AUDIT STATEMENT AND ASSESS TAX.)

1. Except as otherwise provided in this subsection and subsections 2, 3 and 4 of this section, the tax commissioner may proceed to audit the statements of dealers and, not later than three years after the due date of a statement, or three years after the statement was filed, whichever period expires later, assess the tax and, if any additional tax is found due, shall notify the dealer in detail as to the reason for the increase;
2. If a dealer omits from a statement a gallonage amount properly includable therein which is in excess of twenty-five percent of the amount of gallonage stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without such assessment, at any time within six years after the due date of the statement, or six years after the statement was filed, whichever period expires later;
3. Where false or fraudulent information is given in a statement, or where the failure to file a statement is due to the fraudulent intent or the willful attempt of the dealer in any manner to evade the tax, the time limitations in this section shall not apply, and the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without such assessment, at any time; and
4. Where before the expiration of the time prescribed in subsections 1 and 2 for the assessment of tax, the tax commissioner and the dealer consent in

writing to an extension of time for the assessment of the tax, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

SECTION 3. AMENDMENT.) Subsections 5 and 8 of section 57-52-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

5. "Sale" means the receipt, delivery or transfer of title to special fuels by a special fuel dealer to a special fuel user except that it shall not include the receipt, delivery, or transfer of title to special fuels to be used for heating, agricultural, industrial and railroad purposes;
8. "Highway purposes" means any use of special fuels in any motor vehicle or in any phase of construction, reconstruction, repair or maintenance of highways as defined in subsection 2, except that special fuel known as liquefied petroleum gas used for heating purposes, and shall not include that special fuel used for heating of oils, gravel, bituminous mixture, or in any equipment used in the preparation of any materials to be used on any type of road or highway surfacing.

SECTION 4. AMENDMENT.) Section 57-52-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-12. REFUSAL OR FAILURE TO FILE RETURN OR PAY TAX WHEN DUE - DEFICIENCIES - PENALTIES.) In case any special fuel dealer refuses or fails to file a return required by this chapter within the time prescribed by section 57-52-10, there is hereby imposed a penalty of five dollars or a sum equal to two percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction thereof during which such refusal or failure continues. The state tax commissioner, in his discretion for good cause shown, may waive the penalty provided by this section. Where a special fuel dealer files a return but fails to pay in whole or in part the tax due hereunder, there shall be added to the amount due and unpaid, interest at the rate of one percent per month or fraction thereof from the date such tax was due to the date of payment in full thereof. If it be determined by the state tax commissioner that the tax reported by any special fuel dealer is deficient, he shall proceed to assess the deficiency on the basis of information available to him and there shall be added

to this deficiency interest at the rate of one percent per month or fraction thereof from the date the return was due.

SECTION 5. AMENDMENT.) Section 57-52-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-19. PENALTIES.) Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment of not more than thirty days, or by both such fine and imprisonment. Upon such conviction the state tax commissioner shall revoke for a period of not less than one year the special fuel dealer's license of any special fuel dealer convicted of violating this chapter. The fine and imprisonment and revocation of license, provided for in this section, shall be in addition to any other penalty imposed by other provisions of this chapter.

SECTION 6. AMENDMENT.) Subsection 4 of section 57-53-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Sale" means the receipt, delivery, or transfer of title to special fuels by a special fuel dealer to a special fuel user to be used for agricultural, heating, industrial or railroad purposes;

SECTION 7. AMENDMENT.) Section 57-53-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-53-05. RECORDS AND RETURNS - PENALTIES AND INTEREST - POWERS OF STATE TAX COMMISSIONER.)

1. A special fuel dealer shall keep such records and shall make such monthly returns and payments of the tax to the state tax commissioner, in the manner, at the time, and pursuant to similar procedures as are provided in sections 57-52-09 and 57-52-10 insofar as those sections are not inconsistent with the provisions of this chapter. The tax commissioner, if he deems it necessary or advisable to ensure the payment of the tax imposed by this chapter, or if he deems it practical, may require returns and payments of the tax to be made for other than monthly periods.
2. For failure or refusal to keep such records, file returns and make payments of the tax to the state tax commissioner as herein provided, a special fuel dealer shall be subject to the same penalties and interest as are provided in sections 57-52-12, 57-52-13 and 57-52-14.

3. The state tax commissioner, in his discretion, and for good cause shown, may waive the penalty for failure or refusal to file a return within the time required by this chapter or grant a reasonable extension of time for filing such a return. The state tax commissioner shall have power to revoke or cancel the license of any special fuel dealer under the conditions and after notice as provided in section 57-52-08; assess deficiencies in the tax; determine the tax when returns are not filed as required by this chapter; permit credit for or authorize refund of erroneously or illegally collected taxes, penalties or interest imposed by this chapter from undistributed funds received under this chapter, all in the manner and to the same extent as provided in sections 57-52-12, 57-52-13, 57-52-14 and 57-52-15, insofar as the provisions of those sections are consistent with this chapter.
4. The state tax commissioner shall enforce the provisions of this chapter and may prescribe, adopt and enforce reasonable rules and regulations relating to the administration and enforcement of this chapter for both the special fuel dealer and the special fuel user, and he may examine the records of special fuel dealers and special fuel users and make such investigations as he may deem necessary in the administration and enforcement of this chapter.
5. The tax commissioner shall audit the returns and make necessary assessments pursuant to the procedures and limitations provided for in section 57-52-10.1.

SECTION 8. AMENDMENT.) Section 57-53-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-53-08. PENALTIES.) Any person violating any provision of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor 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. Upon conviction the state tax commissioner may revoke for a period of not less than one year the special fuel dealer's license of any special fuel dealer convicted of violating this chapter. The fine and imprisonment and revocation of license, provided for in this section, shall be in addition to any other penalty imposed by other provisions of this chapter.

SECTION 9. AMENDMENT.) Section 57-54-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-03. DEFINITIONS.) As used in this chapter, unless the context otherwise requires:

1. "Motor vehicles" means all vehicles, engines, or machines, movable or immovable, which are operated in whole or in part by internal combustion of one or more of the motor vehicle fuels defined in this chapter;
2. "Motor vehicle fuels" includes all products commonly or commercially known or sold as gasoline, including casinghead and absorption or natural gasoline, regardless of their classifications or uses, and any liquid which, when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene, and similar petroleum products (American society for testing materials designation D-86), shows not less than ten percent distilled (recovered) below three hundred forty-seven degrees Fahrenheit (one hundred seventy-five degrees Centigrade) and not less than ninety-five percent distilled (recovered) below four hundred sixty-four degrees Fahrenheit (two hundred forty degrees Centigrade);
3. "Dealer" means any person, firm, association, or corporation importing or causing to be imported from any other state or country any motor vehicle fuel for operating or propelling motor vehicles for use, distribution or sale, in and after the same reaches the state of North Dakota, and any person, firm, association, or corporation producing, refining, manufacturing, compounding or purchasing any motor vehicle fuel in this state for use, distribution or sale therein;
4. "Original package" means any tank car, barrel, or other package which is in the form and condition in which the same was imported into the state;
5. "Person" shall include every individual, partnership, society, incorporated association, joint stock company, corporation, trustee, executor, administrator, or guardian;
6. "Commissioner" shall mean the state tax commissioner of this state; and
7. "Wholesale dealer" means the same as is stated in subsection 3, with the added qualification in that it shall mean those selling or delivering motor vehicle fuel to retail dealers.

SECTION 10. AMENDMENT.) Section 57-54-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-07. REPORT BY DEALER TO STATE TAX COMMISSIONER.)

Each dealer in motor vehicle fuel who shall engage, in his own name, or in the name of any other person, in this state, in the sale or use of motor vehicle fuel, not later than the twenty-fifth day of each calendar month, shall render to the state tax commissioner, on the form prescribed, prepared, and furnished by the state tax commissioner a statement witnessed by two witnesses, of the number of gallons of motor vehicle fuel sold, used, received and delivered by him during the preceding calendar month; provided that the tax commissioner, if he deems it necessary or advisable in order to ensure the payment of the tax imposed by this chapter, may require returns and payment of the tax to be made for periods other than monthly periods. If the dealer is a domestic corporation, the statement shall be signed by the president or secretary, and if a foreign corporation, by the resident general agent, attorney in fact, or by a chief accountant or officer. If the dealer is a firm, or an association of individuals, the statement shall be made by the managing agent or owner. Such report shall contain a statement of the quantities of motor vehicle fuel sold, used, received and delivered within this state from the dealer's place of business, and if any such motor vehicle fuel has been sold and delivered by the dealer to customers in the original package, whether in tank car, barrel, or other package, and in the form and condition in which the same was imported, the statement shall show the amount of motor vehicle fuel so sold and delivered, and the names and addresses of the persons to whom the same was sold and delivered.

SECTION 11. AMENDMENT.) Section 57-54-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-11. FAILURE TO FILE REPORT - PENALTY - 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 report required to be filed, or pay the full amount of the tax as required by this chapter, there is hereby imposed a penalty of five dollars, or a sum equal to two percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction thereof during which such refusal or failure continues, and the state tax commissioner forthwith may revoke such license and, if so, shall notify the holder thereof promptly by a notice sent by registered or certified mail to the postoffice address of such holder as the same appears in the state tax commissioner'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 tax commissioner may continue such license in full force and effect. The state tax commissioner, in his discretion for good cause shown, may waive all or any part of the penalty provided by this section.

SECTION 12. AMENDMENT.) Section 57-54.1-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-15. ADMINISTRATION, RECORDS, REFUNDS, PENALTIES, DISPOSITION OF FUNDS, AUDITS AND ASSESSMENTS.)

1. Importer for use tax shall be reported, paid, collected, refunded, and administered and importers for use shall be subject to the same penal provisions, and importer for use tax collection shall be distributed all as provided in the fuels tax chapter, sections 57-52-09 to 57-52-20, inclusive, and refund motor fuel tax and motor vehicle fuel tax chapters, sections 57-50-02, 57-50-03, 57-50-04 and 57-54-11 to 57-54-23.
2. The tax commissioner shall audit the returns and make necessary assessments pursuant to the procedures and limitations provided for in section 57-52-10.1.

SECTION 13. AMENDMENT.) Section 57-56-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-56-02. ADMINISTRATION.)

1. The state tax commissioner shall be charged with the administration of this chapter. He shall be authorized and empowered to employ such assistance as may be necessary for the efficient administration and enforcement of the chapter and shall also have the power to make such reasonable rules and regulations relating to the administration and enforcement of the chapter as may be deemed necessary and expedient. He shall be authorized and empowered to determine the purchase price of such aviation gasoline, jet motor fuel and other motor fuel used by aircraft and at the time of approving a refund of the taxes imposed by chapters 57-54 and 57-52 on such fuel, he shall deduct the tax imposed in this chapter from the amount of such refund. Claims for refund of taxes imposed by chapters 57-54 and 57-52 on aviation gasoline, jet aviation motor fuel and other motor fuel used by aircraft shall be in such form and subject to such conditions and requirements, including time for filing, as are provided in the refund motor fuel tax law, chapter 57-50.
2. The tax commissioner shall audit the returns and make necessary assessments pursuant to the procedures and limitations provided for in section 57-52-10.1.

Approved March 27, 1973

CHAPTER 488

SENATE BILL NO. 2259
(J. Schultz)

MOBILE HOME TAX EXEMPTIONS

AN ACT to amend and reenact section 57-55-10 of the North Dakota Century Code, relating to exemptions and exceptions to the taxation of mobile homes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-55-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-10. EXEMPTIONS - EXCEPTIONS.)

1. A mobile home described in this subsection to the extent herein limited shall be exempt from taxation under this chapter, provided that any such mobile home shall have displayed on it a tax decal as provided in section 57-55-06:
 - a. If it is owned and used as living quarters of a military person on active military duty in this state who is a resident of another state.
 - b. If it is owned and occupied by a welfare recipient who meets the requirements of section 57-02-21, provided such mobile home is not permanently attached to the land and classified as real property.
 - c. If it is owned and used as the living quarters for a disabled veteran who meets the requirements of subsection 20 of section 57-02-08.
 - d. If it is owned and used as the living quarters for a blind person who meets the requirements of subsection 22 of section 57-02-08.
 - e. If it is owned and used by a person who uses it as his living quarters and who qualifies for the homestead credit provided in section 57-02-08.1, and such mobile home shall be regarded for the purposes of this exemption as the homestead of the person claiming the exemption.
2. The provisions of this chapter shall not apply to a

mobile home which:

- a. Is used only for the temporary living quarters of the owner or other occupant while such person is engaged in recreational or vacation activities, provided that such unit displays a current travel trailer license.
- b. Qualifies as a farm residence provided such mobile home is permanently attached to the ground and the owner of such mobile home owns the land on which such mobile home is located.
- c. Is permanently attached to a foundation and is assessed as real property, provided the owner of such mobile home also owns the land on which such mobile home is located.
- d. Is owned by a licensed mobile home dealer who holds such mobile home solely for the purpose of resale, and provided that such mobile home is not used as living quarters or as the place for the conducting of any business.

Approved March 3, 1973

CHAPTER 489

SENATE BILL NO. 2324
(Butler)

JET AIRCRAFT FUEL TAX

AN ACT to create and enact a new section to chapter 57-56 of the North Dakota Century Code to provide for a separate and additional tax on the sale of jet aviation motor fuel used by aircraft.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) A new section to chapter 57-56 of the North Dakota Century Code is hereby created and enacted to read as follows:

SEPARATE AND ADDITIONAL TAX ON SALES OF JET AVIATION MOTOR FUEL.) In addition to any other tax provided for by law, there is hereby levied and imposed a special excise tax on all sales of jet aviation motor fuel used by aircraft at the rate of two percent of the sale price of such motor fuel used by aircraft on which a tax is levied by chapters 57-54 or 57-52 and which is refunded under the provisions of chapter 57-50. The proceeds of the additional tax provided for in this section shall be distributed by the aeronautics commission to the airports where the jet aviation motor fuel is sold, as determined under the provisions of section 57-56-03.

Approved March 19, 1973

CHAPTER 490

HOUSE BILL NO. 1320
(Fleming)

WOODLAND TAX

AN ACT to amend and reenact subsection 1 of section 57-57-01 and sections 57-57-02, 57-57-03, 57-57-05, 57-57-06, 57-57-07, and 57-57-08 of the North Dakota Century Code, to change the native woodland tax to a woodland tax which applies to both natural and planted forest covers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

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

1. "Woodland" means an area of land normally supporting a growth of natural or planted forest cover;

SECTION 2. AMENDMENT.) Section 57-57-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-57-02. ELIGIBILITY TO BE TAXED - APPLICATION.) Beginning January 1, 1974, the owner or his agent, having any tract of contiguous woodland which consists of:

1. Natural forest cover ten acres or larger in size;
2. Planted forest cover five acres or larger in size and not less than sixty feet in width; or
3. Any combination of natural and planted forest cover ten acres or larger in size,

may file an application with the state forester setting forth a description of property which he desires to place under the woodland tax and on which land he will practice forestry. The state forester shall prescribe the form of such application blanks and make them available to all persons desiring to subject woodlands owned by them to the provisions of this chapter.

SECTION 3. AMENDMENT.) Section 57-57-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-57-03. DUTIES OF THE STATE FORESTER.) Upon the filing of the application provided for in section 57-57-02, the state forester shall examine the land and if he finds that the woodland will produce a forest cover, the state forester shall enter an order approving the application. A copy of such order shall be forwarded to the owner or his agent, to the local assessor of any township or district wherein the land is located, to the clerk of the township if the township is organized, and to the county auditor.

SECTION 4. AMENDMENT.) Section 57-57-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-57-05. DUTY OF LOCAL ASSESSOR.) The local assessor in preparing the tax roll shall show the acreage for each owner covered by the provisions of this chapter in a column designated by the words "Woodland Tax Law" or the initials "W.T.L.".

SECTION 5. AMENDMENT.) Section 57-57-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-57-06. LIABILITY, RATE, AND COLLECTION OF THE TAX-LIEU TAX.) The owner shall be liable and shall pay to the county treasurer at the same time taxes on other real property are due, a tax computed at a rate determined to be equitable by the county commissioners and the state forester on the land approved for entry under this chapter. Such tax shall be a part of the total real property taxes on the land of the owner and subject to collection in the same manner as any other real property taxes. The payment of the taxes herein imposed shall be in lieu of all ad valorem taxes by the state, counties, towns, townships, school districts, and other municipalities upon any property rights attached to such woodlands. It is expressly provided that the woodland tax shall not be in lieu of income taxes nor excise taxes upon the sale of forest products or services that may be derived from such woodlands. It is expressly provided that the woodland tax rate shall not exceed the rate as determined by the state and county levy. The county commissioners and the state forester may meet to consider the woodland tax rate at any time deemed suitable or necessary by both parties.

SECTION 6. AMENDMENT.) Section 57-57-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-57-07. DESTRUCTIVE PRACTICES PROHIBITED - DECLASSIFICATION - MANAGEMENT AND ASSISTANCE OF THE STATE FORESTER.) If woodlands are cleared, grazed, burned, cut, or otherwise dealt with in a destructive manner as determined by the state forester, they may be subject to declassification and return to the regular tax rolls. At the request of the owner or his agent the state forester may assist in preparing and carrying out a forest management plan for the orderly development of these woodlands.

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

57-57-08. REPORT OF THE STATE FORESTER - DECLASSIFICATION ORDERS.) The state forester shall make an annual written report as to the forest practices of each woodland owner or his agent covering lands enrolled under this chapter. If the state forester finds that the owner or his agent has not complied with the law, or if the land is no longer used for forestry purposes, he shall issue an order removing the land from the woodland tax law classification. Any declassification order issued on or before March first of any year shall take effect in such year. A copy of the declassification order shall be sent to the owner or his agent, to the local assessor of the township or district wherein the land is located, to the clerk of the township if the township is organized, and to the county auditor. Any order issued under this section shall be final unless set aside pursuant to the provisions of section 57-57-09.

Approved March 12, 1973