

TAXATION

CHAPTER 590

HOUSE BILL NO. 1317
(Koski)

COLLECTION OF DELINQUENT TAXES

AN ACT to amend and reenact section 57-01-13 of the North Dakota Century Code, relating to the collection of delinquent sales, use, income, and business and corporation privilege taxes from taxpayers not residing in North Dakota.

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

SECTION 1. AMENDMENT. Section 57-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-01-13. Collection of delinquent sales, use, income, and business and corporation privilege taxes.

1. Notwithstanding the secrecy and confidential information provisions in chapters 57-38 and 57-39.2 of the North Dakota Century Code, the tax commissioner may, for the purpose of collecting delinquent North Dakota sales, use, income, or business and corporation privilege taxes due from a taxpayer not residing or domiciled in this state, contract with any collection or credit agency, within or without the state, for the collection of such delinquent sales, use, income, or business and corporation privilege taxes, including penalties and interest thereon. For purposes of this section a delinquent tax shall be defined as a tax liability that is due and owing for a period longer than six months and for which the taxpayer has been given at least three notices in writing requesting payment, one of which shall have been the first two notices shall be sent by regular mail to the taxpayer at his last known mailing address and the third notice shall be sent by certified or registered mail to the taxpayer's last known mailing address. If the tax commissioner has assigned a delinquent tax liability pursuant to this section, subsequent sales, use, income, or business and corporation privilege taxes that become due from the same taxpayer may be assigned immediately and without further

notice to the taxpayer, so long as the originally assigned liability has not been fully collected.

2. a. Fees for services, reimbursement, or any other remuneration to such collection or credit agency shall be based on the amount of tax, penalty, and interest actually collected. Each contract entered into between the tax commissioner and the collection or credit agency shall provide for the payment of fees for such services, reimbursements, or other remunerations not in excess of fifty percent of the amount of delinquent sales, use, income, or business and corporation privilege tax, including penalties and interest actually collected.
 - b. All funds collected, less the fees for collection services, as provided in the contract, must be remitted to the tax commissioner ~~within ten days~~ monthly from the date of collection from a taxpayer. Forms to be used for such remittances shall be prescribed by the tax commissioner.
 - c. Before entering into such a contract, the tax commissioner shall require a bond from the collection or credit agency not in excess of ten thousand dollars, guaranteeing compliance with the terms of the contract.
3. A collection or credit agency entering into a contract with the tax commissioner for the collection of delinquent taxes pursuant to this section thereby agrees that it is doing business in this state for the purposes of the North Dakota income tax and business and corporation privilege tax laws.

Approved March 16, 1983

CHAPTER 591

HOUSE BILL NO. 1053
(Legislative Council)
(Interim Finance and Taxation Committee)

TAX LEVY LIMITATIONS

AN ACT to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to protection of property taxpayers and taxing districts; to create and enact a new subsection to section 17 and a new subsection to section 18 of Senate Bill No. 2047, as approved by the forty-eighth legislative assembly, relating to mill levy limitations which apply to school districts; and to amend and reenact section 57-15-14 of the North Dakota Century Code as amended by Senate Bill No. 2047, as approved by the forty-eighth legislative assembly, relating to school district excess mill levies; and to provide an effective date.

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

SECTION 1. A new section to chapter 57-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

Protection of taxpayers and taxing districts. Each taxing district, with the exception of school districts, may levy the amount in dollars as certified in the budget by the governing body, the percentage increase as allowed under subsection 2 more than the amount levied in dollars in the prior year, or the amount levied in dollars in the prior year plus an amount equal to the sum determined by application of any mill levies authorized by law but not levied in the taxing district for the prior year plus any mill levies specifically authorized by the electors of that taxing district but not levied for the prior year in that taxing district, whichever is less, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts provided in this section.
2. A taxing district may elect to levy four percent more in 1983 than the amount levied in dollars in 1982 and may elect to levy four percent more in 1984 than the amount levied in dollars in 1983. The governing body of the taxing district must specifically approve by resolution

the levy of the additional percentage. Before adding the increase, the dollar amount levied in the prior year which is used as a base amount shall be:

- a. Reduced by an amount equal to the sum determined by the application of the mill levies for that taxing district to the final taxable valuation of any property which is removed from the assessment rolls of that taxing district after the prior year but was included in the assessment for the prior year.
 - b. Increased by an amount equal to the sum determined by the application of the mill levies for that taxing district to the taxable valuation of any taxable property which was not taxable in the prior year or was omitted from the assessment rolls for that year but which is included in the assessment for the current year.
 - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district.
3. A taxing district may levy an amount in dollars equal to the amount levied in the prior year reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district plus an amount equal to the sum determined by the application of any mill levies authorized by law but not levied by the governing body of the taxing district for the prior year and any mill levies specifically authorized by the electors of that taxing district but not levied for the prior year to the taxable valuation of the taxable property in that taxing district. A taxing district electing to increase its levy under this subsection may not add the percentage increase permitted by this section to the amount levied pursuant to this subsection.
4. A taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district after the effective date of this Act, but the percentage increase over the prior year's levies authorized by this section shall not be applied to any increase authorized by this subsection.
5. The provisions of this section supersede any applicable mill levy limitations otherwise provided by law, but the provisions of this section do not apply to the following:
- a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.

- b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
6. The limitation on the amount which may be levied by a taxing district pursuant to this section shall not apply to school districts.
7. The provisions of this section shall not apply to any city which has adopted a home rule charter unless the provisions of the charter specifically provide that state laws related to property tax levy limitations shall apply.

SECTION 2. A new subsection to section 17 of Senate Bill No. 2047, as approved by the forty-eighth legislative assembly, is hereby created and enacted to read as follows:

Any increase in the levy for the purposes provided for in this section which exceeds an amount in mills equal to two-thirds or more of the difference between the amount levied for those purposes the prior year and the maximum levy permitted under this section must be approved by sixty percent of the members of the school board by resolution.

SECTION 3. A new subsection to section 18 of Senate Bill No. 2047, as approved by the forty-eighth legislative assembly, is hereby created and enacted to read as follows:

Any increase in the levy for the purposes provided for in this section which exceeds an amount in mills equal to two-thirds or more of the difference between the amount levied for these purposes the prior year and the maximum levy permitted without electorate approval pursuant to section 57-15-14 must be approved by sixty percent of the members of the school board by resolution.

SECTION 4. AMENDMENT. Section 57-15-14 of the North Dakota Century Code as amended by Senate Bill No. 2047, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

57-15-14. Tax levy limitations in school districts. The Subject to the provisions of subsection 3, the aggregate amount levied each year for the purposes listed in section 18 of this Act by any school district, except the Fargo school district, shall not exceed the amount in dollars which the school district levied for the prior school year plus eighteen percent up to a general fund levy of seventy mills on the dollar of the taxable valuation of the district, except that:

1. In any school district having a total population in excess of four thousand according to the last federal decennial census:

- a. There may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the electors voting upon the question at any regular or special school district election.
 - b. There shall be no limitation upon the taxes which may be levied if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted to and approved by a majority of the electors voting at any regular or special election upon such question.
2. In any school district having a total population of less than four thousand according to the last federal decennial census, there may be levied any specific number of mills that upon resolution of the school board has been approved by fifty-five percent of the electors voting upon the question at any regular or special school election.
 3. Any school district may increase its levy for the purposes listed in section 18 of Senate Bill No. 2047, as approved by the forty-eighth legislative assembly, by at least four percent in 1983 from the amount levied in dollars in 1982 and four percent more in 1984 from the amount levied in dollars in 1983. In addition, any school district whose electorate has approved a specified levy for prior years and which district did not levy up to the authorized level of that specified levy, may levy the difference between the levy authorized and the amount levied the preceding year for that purpose in addition to the maximum levy allowable under section 57-15-14 as amended by Senate Bill No. 2047, as approved by the forty-eighth legislative assembly.

The question of authorizing or discontinuing such specific number of mills authority or unlimited taxing authority in any school district shall be submitted to the electorate at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of electors of the district equal in number to twenty percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, unless such census is greater than four thousand in which case only fifteen percent of the number of persons enumerated in the school census shall be required. However, not fewer than twenty-five signatures shall be required unless the district has fewer than twenty-five electors, in which case the petition shall be signed by not less than twenty-five percent of the electors of the district. In those districts with fewer than twenty-five electors, the number of electors in the district shall be determined by the county superintendent for such county in which such school is located. However, the approval of discontinuing either such authority shall not affect the tax levy in the calendar year in which the election is held. The election shall

be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy.

SECTION 5. EFFECTIVE DATE. This Act is effective for the taxable years beginning January 1, 1983, and January 1, 1984.

Approved April 28, 1983

CHAPTER 592

SENATE BILL NO. 2179
(Committee on Finance and Taxation)
(At the request of the Board of Equalization)

AIRCRAFT REGISTRATION FEES AND SALES USE TAX

AN ACT to create and enact a new subsection to section 57-02-01, three new sections to chapter 57-32, a new subsection to section 57-39.2-04, and a new subsection to section 57-40.2-04 of the North Dakota Century Code, relating to valuation, assessment, and taxation of air carrier transportation property and an exemption from aircraft registration fees and from sales and use taxes for aircraft assessed pursuant to the provisions of chapters 57-06 and 57-32; and to amend and reenact subsection 13 of section 57-02-01 and subsections 3 and 4 of section 57-02-27 of the North Dakota Century Code, relating to definition of air carrier transportation property and assessment and taxation of air carrier transportation property; and providing for an effective date.

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

SECTION 1. A new subsection to section 57-02-01 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

"Air carrier transportation property" means the operative property of each airline whose property is assessed for taxation purposes pursuant to chapters 57-06 and 57-32.

* SECTION 2. AMENDMENT. Subsections 3 and 4 of section 57-02-27 of the 1981 Special Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. All commercial, air carrier transportation, and railroad property to be valued at ten percent of assessed value.
4. All centrally assessed property, except air carrier transportation and railroad property, to be valued at fourteen percent of assessed value for the 1981 property tax year, thirteen percent of assessed value for the 1982 property tax year, twelve percent of assessed value for the 1983 property tax year, eleven percent of assessed

* NOTE: Section 57-02-27 was also amended by section 37 of Senate Bill No. 2071, chapter 593.

value for the 1984 property tax year, and ten percent of assessed value for all property tax years beginning on or after January 1, 1985.

SECTION 3. A new section to chapter 57-32 of the North Dakota Century Code is hereby created and enacted to read as follows:

Property assessed in lieu of registration fees and sales and use taxes. The taxes imposed by chapters 57-06, 57-07, 57-08, 57-13, and this chapter on air carrier transportation property are in lieu of the registration fees imposed by section 2-05-11 and are in lieu of sales and use taxes which would otherwise be imposed on the sale, storage, use, or consumption of air carrier transportation property except for the provisions of sections 57-39.2-04 and 57-40.2-04.

SECTION 4. A new section to chapter 57-32 of the North Dakota Century Code is hereby created and enacted to read as follows:

Method of valuation. All of the operative property of each air carrier transportation company shall be valued for assessment purposes by the tax commissioner and the state board of equalization and a portion of the total valuation shall be allocated to the state of North Dakota. For the purpose of determining the value of the operative property of each air transportation company, the tax commissioner and the state board of equalization shall take into consideration the original cost and replacement cost of the property, depreciation, obsolescence, the earning power of the property as shown by the company's gross earnings and net operating income, the market or actual value of the company's stock and bonds and other liabilities, and such other legally established evidences of value as shall enable the tax commissioner and the state board of equalization to make a just and equitable assessment.

SECTION 5. A new section to chapter 57-32 of the North Dakota Century Code is hereby created and enacted to read as follows:

Allocation of value. The valuation of all of the operative property of an air carrier transportation company shall be allocated to this state according to the following percentages, which shall be calculated for each type of aircraft in the fleet and multiplied by the percentage of the total fleet represented by that type of aircraft:

1. Twenty percent of the percentage which the total revenue generated by passengers, mail, express, and freight originating in this state during the preceding calendar year is to the total revenue generated by passengers, mail, express, and freight originating within and without this state during the preceding calendar year.

2. Twenty percent of the percentage which the total tonnage of passengers, mail, express, and freight first received by the air transportation company in this state during the preceding calendar year plus the total tonnage of passengers, mail, express, and freight finally discharged by the air transportation company in this state during the preceding calendar year is of the total of such tonnage first received by the air transportation company or finally discharged by the air transportation company within and without this state during the preceding calendar year.
3. Twenty percent of the percentage which the number of revenue ton miles of passengers, mail, express, and freight flown by the air transportation company in this state during the preceding calendar year is to the total number of such miles flown by the air transportation company within and without the state during the preceding calendar year.
4. Twenty percent of the percentage which the number of revenue plane miles flown by the air transportation company in this state during the preceding calendar year is to the total number of such miles flown by the air transportation company within and without this state during the preceding calendar year.
5. Twenty percent of the percentage which the total time of the aircraft of the air transportation company in revenue flight in this state during the preceding calendar year is of the total of such time in flight within and without this state during the preceding calendar year.

SECTION 6. A new subsection to section 57-39.2-04 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from all sales of air carrier transportation property subject to ad valorem property taxation pursuant to the provisions of chapters 57-06, 57-07, 57-08, 57-13, and 57-32.

SECTION 7. A new subsection to section 57-40.2-04 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Air carrier transportation property subject to ad valorem property taxation pursuant to the provisions of chapters 57-06, 57-07, 57-08, 57-13, and 57-32.

SECTION 8. EFFECTIVE DATE. This Act is effective for taxable years beginning on or after January 1, 1982.

Approved April 28, 1983

CHAPTER 593

SENATE BILL NO. 2071
 (Legislative Council)
 (Interim Tax Statutes Revision Committee)

ASSESSED AND TAXABLE VALUATION USAGE UNIFORMITY

AN ACT to amend and reenact sections 2-06-15, 4-02-26, 4-02-27.2, 4-02-37, 4-16-02, 11-11-24, 11-28.2-04.2, 15-08-18.1, 15-28-02, 15-39.1-28, subsection 1 of section 15-53.1-14, section 15-53.1-33, subsection 4.1 of section 21-03-06, subsection 1 of section 23-14-11, sections 23-18-01, 23-18-02, 23-18-03, 23-18.2-12, 24-05-01, 40-05-09.1, 40-05-09.2, 40-37-03, subsection 1 of section 40-38-02, sections 40-38.1-02, 40-40-11, 40-48-07, 40-55-08, 40-55-09, 40-57.1-03, 40-57.2-04, 40-59-01, subsection 3 of section 52-09-08, sections 54-24.2-03, subsections 7 and 16 of section 57-02-01, subsections 20, 22, and 26 of section 57-02-08, subsection 1 of section 57-02-08.1, sections 57-02-27, 57-02-28, 57-09-06, 57-12-09, 57-15-02, 57-15-06, subsection 1 of section 57-15-06.3, sections 57-15-06.4, 57-15-06.5, 57-15-06.6, 57-15-08, subsection 4 of section 57-15-10, sections 57-15-10.1, 57-15-12, subsection 1 of section 57-15-12.1, sections 57-15-14, 57-15-15, 57-15-18.1, 57-15-18.2, subsection 1 of section 57-15-19.4, sections 57-15-19.5, 57-15-19.6, 57-15-20, 57-15-22, 57-15-27.1, 57-15-27.2, 57-15-28, 57-15-36, 57-15-37, 57-15-37.1, 57-15-42, 57-15-48, 57-15-50, 57-15-51, 57-15-51.1, 57-15-53, 57-15-54, 57-15-55, subsection 1 of section 57-15-56, sections 57-15-57, 57-19-04, 57-20-02, 57-22-16, 57-44-03, 58-02-01, subsection 18 of section 58-03-07, section 58-17-02, subsection 3 of section 61-04.1-24, sections 61-04.1-26, 61-04.1-32, 61-09-20, 61-21-46, subsection 1 of section 63-01.1-06, section 63-01.1-06.3, and subsection 2 of section 63-01.1-10.1 of the North Dakota Century Code, relating to technical corrections and to make uniform the usage of the terms "assessed valuation" and "taxable valuation" without incorporating any substantive change in property tax law.

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

* SECTION 1. AMENDMENT. Section 2-06-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 2-06-15 was also amended by section 1 of Senate Bill No. 2320, chapter 86, and section 1 of Senate Bill No. 2065, chapter 606.

2-06-15. County tax levy for airport purposes. In counties supporting airports or airport authorities, a levy in addition to all other levies permitted by law, not to exceed four mills on the ~~net~~ taxable valuation of property in such county, may be made for such purposes, but such levy shall not apply to any city or park district that already has an airport levy.

* SECTION 2. AMENDMENT. Section 4-02-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-26. County fairs - Organized when - Aiding. A county fair association may be organized in any county having taxable ~~realty and personalty of an assessed~~ property of a taxable valuation of not less than ~~one and one-half million~~ seven hundred fifty thousand dollars. The executive officers and directors shall be residents of the county. The association may apply to the board of county commissioners of the county for a grant to aid in the erection of suitable buildings and other improvements to accommodate its patrons and exhibits, and to pay premiums and expenses that may be awarded on such exhibits at any fair. An application for the grant shall be in writing and shall state the incorporation of the association, the names and places of residence of all its executive officers, and the ownership of real property in the county sufficient in area for the purpose of its fair and of the value of at least twenty-five hundred dollars. If the board of county commissioners shall be satisfied that the statements in the application are true and that the association intends in good faith to hold a fair within the county annually for the exhibition of agricultural, horticultural, mechanical, and manufactured products of the county, and of such articles as are usually exhibited at fairs, it may levy for the first year's grant of aid a tax which shall not exceed one-half of one mill on all the taxable property within the county, and the same shall be collected as other taxes are collected. If the tax is levied, the board of county commissioners shall pay to the secretary of the association, not later than July thirty-first thereafter, the amount of the tax levied and shall take the receipt of the association therefor.

** SECTION 3. AMENDMENT. Section 4-02-27.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-27.2. Additional levy in certain counties. The board of county commissioners of any county having a population in excess of twenty-five thousand, according to the latest federal decennial census, shall, when petitioned by at least five percent of the electors of the county, including electors residing in at least one-half of the voting precincts of the county as determined by the number of votes cast in the county for the office of governor at the last preceding general election, submit to the electors of the county at any general election or special election called for such purpose, the proposition of authorizing the board of county commissioners to purchase or lease in the name of the county not to exceed two hundred ~~and~~ forty acres of real estate and to construct thereon such buildings and other improvements as may be deemed desirable for the

* NOTE: Section 4-02-26 was also amended by section 2 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 4-02-27.2 was also amended by section 5 of Senate Bill No. 2065, chapter 606.

conduct of a county fair and authorizing the board of county commissioners, in the event that the county general fund is deemed insufficient to provide funds therefor, to levy a tax of not to exceed two mills in any one year for a period of not to exceed ten years upon the net taxable valuation of property in the county. If a majority of the votes cast at such election are in favor of the proposition, including the proposed levy, the tax shall be levied and collected as are other property taxes, with the proceeds thereof to be placed into a fund to be known as the "county fair fund". Such tax shall be in addition to any mill levy limitations provided by law, including the levies authorized by sections 4-02-27 and 4-02-27.1.

* SECTION 4. AMENDMENT. Section 4-02-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-37. Multicounty fairs - Organized when - Tax levy. A county fair association may be organized in two or more counties having taxable realty and personalty of an assessed property of a taxable valuation of not less than one and one-half million seven hundred fifty thousand dollars. The executive officers and directors shall be residents of the counties. The association may apply to the boards of county commissioners of the counties for a grant to aid in the erection of suitable buildings and other improvements to accommodate its patrons and exhibits, and to pay premiums and expenses that may be awarded on such exhibits at any fair. An application for the grant shall be in writing and shall state the incorporation of the association, the names and places of residence of all its executive officers, and the ownership of real property in one of the counties sufficient in area for the purpose of its fair and the value of at least twenty-five hundred dollars. If the boards of county commissioners shall be satisfied that the statements in the application are true and that the association intends in good faith to hold a fair within one of the counties annually for the exhibition of agricultural, horticultural, mechanical, and manufactured products of the county, and of such articles as are usually exhibited at fairs, it may levy for the first year's grant of aid a tax which shall not exceed one-half of one mill on all taxable property within the county, and the same shall be collected as other taxes are collected. If the tax is levied, the boards of county commissioners shall pay to the secretary of the association, not later than July thirty-first thereafter, the amount of tax levied and shall take the receipt of the association therefor. A multicounty fair association authorized by this section and the boards of county commissioners of such counties, may do all the things allowed by law that a county fair association organized under section 4-02-26 may do.

** SECTION 5. AMENDMENT. Section 4-16-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-16-02. Gopher, rabbit, and crow destruction fund - Levy - Expending. The board of county commissioners of any county in this state, at any time fixed by law for the levy and assessment of taxes, may levy

* NOTE: Section 4-02-37 was also amended by section 7 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 4-16-02 was also amended by section 10 of Senate Bill No. 2065, chapter 606.

a tax not exceeding one-half of one mill on a dollar of the assessed taxable valuation upon all real estate in the county. The proceeds of such levy shall be used solely for the purpose of promoting the destruction of gophers, rabbits, and crows in the county. The fund raised in accordance with this section shall be denominated the gopher, rabbit, and crow destruction fund, and shall be kept separate and distinct from other funds by the county treasurer. The fund shall be expended by the board at such time and in such manner as it deems best to secure the abatement and extermination of gophers, rabbits, and crows.

* SECTION 6. AMENDMENT. Section 11-11-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-24. Limitation on tax levy for extraordinary expenditure. The rate of tax levied by the board of county commissioners for an extraordinary outlay of money in no case shall exceed three mills on the dollar of the assessed taxable valuation of the county in any one year. When the object is to establish a building fund to aid in the erection of public buildings, the rate shall be such as to raise the fund within six years, and the total sum to be so raised, including the then existing indebtedness of the county, shall not exceed five percent of its assessed valuation ~~according to the last assessment~~. A special tax levied under the provisions of this chapter, after becoming delinquent, shall draw the same rate of interest as ordinary taxes.

** SECTION 7. AMENDMENT. Section 11-28.2-04.2 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28.2-04.2. Powers of recreation service districts - General tax levy. The board of recreation service district commissioners of a recreation service district created under the provisions of this chapter may, upon proper resolution of the board, levy a tax for general purposes in addition to all other levies permitted by law, not to exceed one mill on the ~~net~~ taxable valuation of property in the district.

*** SECTION 8. AMENDMENT. Section 15-08-18.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-18.1. Taxation of public lands sold on contract - Cancellation. Where real property owned by the state of North Dakota as trustee of permanent school funds for the use and benefit thereof is sold upon contract providing for a future conveyance, the department or office making such contract on the part of the vendor shall immediately notify the county auditor of the county wherein the real property is situated, of the making of the contract, the description of the real property therein described, and the name of the vendee. The real property shall be put upon the tax rolls of the county and assessed and the taxes shall be levied thereon, based upon its assessed taxable value on the first day of ~~April~~ February next succeeding the

* NOTE: Section 11-11-24 was also amended by section 12 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 11-28.2-04.2 was also amended by section 17 of Senate Bill No. 2065, chapter 606.

*** NOTE: Section 15-08-18.1 was also amended by section 1 of House Bill No. 1373, chapter 598.

date of the contract. Failure to notify the county auditor according to the provisions of this section shall make the commissioner of university and school lands personally liable in a civil action to be brought by the state's attorney of the county wherein the land lies against the commissioner for the amount of the taxes that would have been levied had the notice been given as herein provided. In the event that the contract is canceled by the vendor, the taxes shall be immediately canceled and stricken from the tax rolls by the county auditor upon notice of such cancellation being given to him by the vendor.

SECTION 9. AMENDMENT. Section 15-28-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-02. Rural members of school board. When a school district is composed of six or more sections of land having a city within its boundaries and when the population of the school district does not exceed two thousand persons, at least two members of the school board shall be residents upon farms outside the corporate limits of the city. When a school district is composed of six or more sections of land and has within its boundaries a city with a population of more than two thousand but less than fifteen thousand persons, and has at least twenty-five families residing upon farms outside the corporate limits of the city but upon farmsteads located within the school district and sending children to school in such school district, at least one member of the board shall be a resident upon a farm outside the corporate limits of the city. Provided, that when the assessed taxable valuation of the rural area of a school district containing a city is greater than the assessed taxable valuation of the urban area of the district, the majority of the members of the school board shall reside upon farms outside the corporate limits of the city.

For purposes of this section, school board members shall be considered as rural members and as residing upon a farm if they reside within a city that according to the latest federal census has a population of two hundred or less and is located within a school district that has four or more incorporated cities within its boundary.

* SECTION 10. AMENDMENT. Section 15-39.1-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-28. Mill levy for teachers' retirement. Any school district by a resolution of its school board may levy a tax of not to exceed forty mills on the assessed taxable valuation within the district, the proceeds to be used for the purposes of meeting the district's contribution to the fund arising under this chapter and to provide the district's share, if any, of contribution to the fund for contracted employees of either a multidistrict special education board or another school district where the contracted employees are also providing services to the taxing school district. The mill

* NOTE: Section 15-39.1-28 was also amended by section 4 of Senate Bill No. 2047, chapter 608, and section 23 of Senate Bill No. 2065, chapter 606.

levy permitted by this section shall be in addition to any tax levy limitations now prescribed by law.

SECTION 11. AMENDMENT. Subsection 1 of section 15-53.1-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The taxable ~~assessed~~ valuation of existing districts and the differences in such valuation under possible reorganization plans.

SECTION 12. AMENDMENT. Section 15-53.1-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53.1-33. Annexation of remaining portions of reorganized district to other districts. When a portion of any public school district has become a part of a reorganized school district under this article and a portion of the public school district is not included in the reorganized district, such remaining portion, having a ~~net assessed~~ taxable valuation as defined in subsection 7 of section 57-02-01 of less than one hundred thousand dollars for each teacher employed in the remaining territory, shall become a part of a school district adjacent thereto in the following manner:

1. The county committee shall, within forty-five days after the reorganized district has been approved by the voters, order a hearing for the purpose of determining to which district or districts the remaining territory shall be annexed.
2. The hearing shall be held in a designated schoolhouse, or a designated place located in the remaining territory, and notice of the time and place of the hearing shall be given by publication in the official county newspaper at least fourteen days before the date of the hearing. Within ten days after the hearing, the county committee shall make an order annexing the remaining territory to adjacent school district or districts.
3. At such hearing the county committee shall receive testimony for the purpose of determining the value and amount of all school property and all bonded and other indebtedness of such school district affected by a change in boundaries, and shall consider the amount of all outstanding indebtedness and make an equitable adjustment of all property, assets, debts, and liabilities among the districts involved; and, if the annexation is approved by the state committee, the county committee may cause a tax to be levied against each district affected in accordance with the provisions of section 15-47-21 which will equalize the several interests fairly.

4. The decision of the county committee shall be reviewed by the state committee and approved if in the judgment of the state committee the effect of the decision is consistent with the existing program for the reorganization of the school districts of the county.

* SECTION 13. AMENDMENT. Subsection 4.1 of section 21-03-06 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 4.1. By any school district having a community or junior college or off-campus educational center as provided in chapter 15-18 which has an enrollment of one thousand or more students, upon motion of the governing body, for capital construction purposes, including the construction and equipping of new buildings or repairing or renovating and equipping of existing buildings. The governing body may levy a tax not exceeding two mills on the dollar of the net assessed taxable valuation of the school district for the purpose of paying the principal and interest on bonds issued pursuant to this subsection. The mill levy authorized by this subsection shall be in addition to any mill levy limitations provided by law. The total principal amount of bonds issued pursuant to this subsection shall not exceed seven hundred thousand dollars, and any indebtedness incurred by a school district shall be within debt limitations established by law. Bonds issued under this subsection shall never become a general obligation of the state of North Dakota.

SECTION 14. AMENDMENT. Subsection 1 of section 23-14-11 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The district board of health, as provided in this chapter, shall prepare a budget for the next fiscal year at the time at which and in the manner in which a county budget is adopted and shall submit that budget to the board of county commissioners for approval. The amount budgeted and approved shall be prorated, in health districts composed of more than one county, among the various counties in the health district according to the assessed valuation of the respective counties comprising the health district, and shall, within ten days after approval by the board of county commissioners, be certified by the district health board to the respective county auditors of such counties, and shall be included in the levies of such counties. The amount called for in the budget shall not exceed the amount which can be raised by a levy of two and one-half mills on the assessed taxable valuation, subject to public hearing in each county comprising the district at least fifteen days prior to action taken by the joint boards of county commissioners. Action taken by the joint boards of county commissioners shall be based on the

* NOTE: Section 21-03-06(4.1) was also amended by section 30 of Senate Bill No. 2065, chapter 606, and section 9 of Senate Bill No. 2047, chapter 608.

record including comments received at the public hearing. Such levy shall not be subject to the limitation on the county tax levy for general and special county purposes, and the amount derived therefrom shall be placed in a special health fund. The health fund shall be deposited with and disbursed by the treasurer of the district board of health, and all counties comprising the health district shall remit and make settlements with such treasurer quarterly. Any funds remaining at the end of any fiscal year may be carried over to the next fiscal year.

* SECTION 15. AMENDMENT. Section 23-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18-01. Hospital associations authorized - County tax levy in aid - Election. A county or community hospital association may be established in any county in this state. The executive officers and directors shall be residents of the county. The association may apply to the board of county commissioners of the county for a grant to aid in the erection of a nonsectarian county hospital. The application for the grant shall be in writing and shall state the incorporation of the association, the names and places of residence of all of its executive officers, and the assets of the association, and shall specify the mill rate of levy applied for, which shall not be in excess of eight mills upon the assessed taxable valuation of the taxable property in the county. If the board of county commissioners shall be satisfied that the statements in the applications are true and that the association intends in good faith to establish a nonsectarian county or community hospital, it shall submit to the electors of the county the question of levying a tax in aid of such nonsectarian county or community hospital, for not more than five years at the mill rate as specified in the application, but not in excess of eight mills in any one year, or, in the alternative, for not more than fifteen years at a mill rate not in excess of five mills in any one year. The county auditor shall give notice of such election within the time and in the manner prescribed by law for the holding of county elections.

SECTION 16. AMENDMENT. Section 23-18-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18-02. Form of ballot. The ballot to be used in such election as provided for in this chapter shall be in the following form:

Shall the county commissioners be authorized to levy a tax in aid of a nonsectarian county or community hospital (or in aid of a nonsectarian county or community clinic) of -----mills upon the assessed taxable valuation of all taxable property in ----- county, for a period of ----- years?

Yes ----- //
 No ----- //

* NOTE: Section 23-18-01 was also amended by section 31 of Senate Bill No. 2065, chapter 606.

SECTION 17. AMENDMENT. Section 23-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18-03. Fifteen-year levy authorized - Rate. If two-thirds of the ballots cast at such election are in favor of the authorization of the levy, the board of county commissioners shall make an annual levy for a period of not more than fifteen years at the mill rate approved at such election upon the assessed taxable valuation of the taxable property in the county, which tax shall be spread and collected in the same manner as other taxes are collected. Such levy shall not be subject to the county levy limitations.

* SECTION 18. AMENDMENT. Section 23-18.2-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18.2-12. Tax levy may be certified by nursing home authority. The nursing home authority may certify annually to the board of county commissioners a tax of not to exceed five mills upon the ~~net~~ taxable valuation of the property in the county for a "nursing home fund" which tax may be levied by the board of county commissioners in excess of the mill limit fixed by law for taxes for general county purposes. The proceeds of the tax collected in such fund shall be used first for the payment of principal and interest on any bonds, issued under the provisions of this chapter, which may be due or about to become due. The remaining proceeds in such fund may also be used for any other corporate purpose of the authority, including but not limited to costs of operation and costs of obligations entered into with private nursing homes.

** SECTION 19. AMENDMENT. Section 24-05-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-05-01. County road tax - Allocation and use of funds. In each county of this state having a population of two thousand or more according to the latest United States or state census, there shall be levied and collected a property tax of not less than one-fourth of one mill, nor more than the maximum rate permitted by law, on each dollar of the assessed taxable valuation of all taxable property in the county for the improvement of highways. When authorized to do so by sixty percent of the electors voting upon the question at a regular or special election in any county, the county commissioners may levy and collect a property tax of not more than five mills on each dollar of the assessed taxable valuation of all taxable property in the county for the improvement of highways, which levy shall be in addition to, and shall not be restricted by, the levy limitations of section 57-15-06. The levy pursuant to such an election 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. Of the proceeds

* NOTE: Section 23-18.2-12 was also amended by section 32 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 24-05-01 was also amended by section 36 of Senate Bill No. 2065, chapter 606.

of such tax collected on account of real or personal property situated within any city, by the county treasurer of the county in which such city is located, twenty percent shall be turned over by such treasurer to the auditor of such city, in the manner provided in section 11-13-06 to be expended under the direction of the governing body of such subdivision in the improvement of the streets and highways thereof. All other proceeds of such tax shall be kept in a distinct fund to be known as the "county road fund" and shall be expended in the improvement of highways as provided in this chapter under the direction of the board of county commissioners. Such taxes shall be in addition to all other taxes for highway purposes otherwise provided by law. The provisions of this section in regard to allocation shall apply to the proceeds of any tax originally levied for other purposes if appropriated or transferred to the county road fund or for expenditure for road and bridge purposes. No allocation pursuant to this section shall include the proceeds received by the county as its share of the allocation made pursuant to section 54-27-19, nor shall any allocation under this section include moneys received from the state as the result of any other intergovernmental transfer.

* SECTION 20. AMENDMENT. Section 40-05-09.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05-09.1. Tax levy for fire department stations. Upon approval of a majority of the electors voting thereon at any regular election or special election called for such purpose, the governing body of any city may levy taxes annually, not in excess of five mills on the net taxable assessed valuation, for the purpose of providing additional funds to meet the operational and maintenance costs of establishing stations for fire protection services. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law.

** SECTION 21. AMENDMENT. Section 40-05-09.2 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05-09.2. Contracting for fire protection service - Providing for the financing thereof. Any city may, upon resolution of its governing body, execute a contract with a nonprofit corporation for the provision of fire protection and firefighting services. Such contracts may be executed only with nonprofit corporations which shall have been in existence and shall have provided fire protection and firefighting services to the contracting municipality for a period of not less than twenty years.

Upon approval of sixty percent of the electors voting thereon at any regular election or special election called for such purpose, the governing body of any city may levy taxes annually, not in excess of fifteen mills on the net taxable assessed valuation, for the purpose of paying for contracted fire protection services and may also expend moneys otherwise available for the provision of such

* NOTE: Section 40-05-09.1 was also amended by section 39 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 40-05-09.2 was also amended by section 40 of Senate Bill No. 2065, chapter 606.

service. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law.

SECTION 22. AMENDMENT. Section 40-37-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-37-03. Votes required to authorize levy - Limitations on tax levy. The levy for municipal band purposes shall be authorized if sixty percent of the votes cast at the election are in favor of the proposition. The governing body of the municipality thereupon may include in its budget an appropriation for the maintenance or employment of a band for municipal purposes and may levy a tax to cover the appropriation in its annual tax levy. The amount of the levy to cover such appropriation, together with the aggregate amount levied for general purposes, shall be within the limitations prescribed in chapter 57-15 of the title Taxation. The amount appropriated for the maintenance or employment of a band for municipal purposes shall not exceed the amount which will be raised by a levy of one mill on the net assessed taxable valuation of the taxable property in the municipality.

* SECTION 23. AMENDMENT. Subsection 1 of section 40-38-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For the purpose of establishing and maintaining public library service, the governing body of a municipality or county authorizing the same shall establish a library fund. The library fund shall consist of annually levying and causing to be collected as other taxes are collected, a municipal or county tax not to exceed four mills on the net taxable assessed valuation of property in the municipality and not to exceed two mills on the net taxable assessed valuation of property in the county, and any other moneys received for library purposes from federal, state, county, municipal, or private sources.

** SECTION 24. AMENDMENT. Section 40-38.1-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38.1-02. Municipal arts fund - Levy - Collection - Kept separate. For the purpose of establishing and maintaining the municipal arts council, the governing body of a city authorizing the same shall establish a municipal arts fund. The fund shall consist of revenues from any city property tax authorized by this section, which levy may be made by the city at the direction of the municipal arts council in any amount, but not to exceed five mills on the net taxable assessed valuation of property in the city; and any other moneys received from federal, state, county, city, or private sources. The city auditor shall keep the municipal arts fund separate and apart from the other money of the city, and it shall not revert to or be considered funds on hand by the governing body at the end of any fiscal year. The municipal arts fund shall be

* NOTE: Section 40-38-02(1) was also amended by section 41 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 40-38.1-02 was also amended by section 42 of Senate Bill No. 2065, chapter 606.

used exclusively for the establishment and maintenance of the municipal arts council and for grants by the council to appropriate arts organizations in the city. Upon motion of the governing body or upon petition of not less than twenty-five percent of the voters in the last general election of the city, filed not less than sixty days before the next regular election, the governing body shall submit to the voters at the next regular election the question of whether such governing body shall annually levy a specified amount not to exceed five mills for the municipal arts council.

SECTION 25. AMENDMENT. Section 40-40-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-11. County auditor to calculate and reduce tax rates - Extending tax levy. After the county auditor has available the data showing the total assessed taxable valuation of a municipality, ~~he the auditor~~ shall calculate the necessary tax rates to produce the sums called for in the final budget. ~~If he shall find the auditor finds~~ that any amount or amounts called for in the levy cannot be produced by a tax rate within the limitation prescribed by the laws of this state, ~~he the auditor~~ shall reduce the amount so that it can be produced by a tax rate within legal limitations. ~~He The auditor~~ shall extend the levy, including the levy for judgments against the municipality, upon the tax lists of the county for the current year against each description of real property and all personal property within the municipality in the same manner and with the same effect as other taxes are extended. The county auditor shall notify the governing body of the municipality at once of any reductions made in the levy ~~made by him~~.

* **SECTION 26. AMENDMENT.** Section 40-48-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-48-07. Limitations on expenditures of commission - Tax levy authorized. The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the governing body of the municipality. Such governing body shall provide the funds, equipment, and accommodations necessary for the commission's work. Each municipality which has established a planning commission, in making its annual tax levy and as a part thereof, may levy and collect a tax of not to exceed one mill on the dollar of assessed taxable valuation in any fiscal year for the purpose of defraying the lawful expenses incurred by the planning commission in carrying out the purposes of this chapter. Provided that any municipality, in order to obtain the funds necessary to initiate or undertake a comprehensive study of the planning requirements of such municipality, may, without regard to any tax limitation herein contained, or otherwise provided by any statute of this state, levy a tax, for a period of not to exceed five successive years, of not more than one mill to raise funds required for such comprehensive study.

** **SECTION 27. AMENDMENT.** Section 40-55-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* **NOTE:** Section 40-48-07 was also amended by section 48 of Senate Bill No. 2065, chapter 606.

** **NOTE:** Section 40-55-08 was also amended by section 12 of Senate Bill No. 2047, chapter 608.

40-55-08. Election to determine desirability of establishing recreation system - How called. The governing body of any municipality, school district, or park district to which this chapter is applicable, may and upon receipt of a petition signed by at least ten qualified voters but not less than five percent of those citizens who voted at the last general election of the municipality, school district, or park district, shall submit to the electors the question of the establishment, maintenance, and conduct of a public recreation system, and the levying of an annual tax for the conduct and maintenance thereof of not more than two and five-tenths mills on each dollar of assessed taxable valuation of all taxable property within the corporate limits or boundaries of such municipality, school district, or park district, to be voted upon at the next general election or special municipal election, provided, however, that such questions shall not be voted upon at the next general election unless such action of the governing body shall be taken, or such petition to submit such question shall be filed thirty days prior to the date of such election.

* SECTION 28. AMENDMENT. Section 40-55-09 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-55-09. Favorable vote at election - Procedure. Upon adoption of the public recreation system proposition at an election by a majority of the votes cast upon the proposition, the governing body of the municipality, school district, or park district, by resolution or ordinance, shall provide for the establishment, maintenance, and conduct of a public recreation system, and thereafter levy and collect annually a tax of not more than two and five-tenths mills, or not more than eight and five-tenths mills if the same is authorized as herein provided, on each dollar of the net taxable assessed valuation of all taxable property within the corporate limits or boundaries of the municipality, school district, or park district. This tax is to be in addition to the maximum of taxes permitted to be levied in such municipality, school district, or park district. The mill levy herein authorized may be raised to not more than eight and five-tenths mills when the increase is approved by the citizens of the municipality, school district, or park district after submission of the question in the same manner as provided in section 40-55-08 for the establishment of the public recreation system. The governing body of the municipality, school district, or park district shall continue to levy the tax annually for public recreation purposes until the qualified voters, at a regular or special election, by a majority vote on the proposition, decide to discontinue the levy. The governing body of the municipality, school district, or park district, in its discretion, may appropriate additional funds for the operation of the public recreation system if in the opinion of the governing body additional funds are needed for the efficient operation thereof. Nothing in this chapter shall be construed to limit the power of any municipality, school district, or park district to appropriate on its own initiative general municipal, school district, or park

* NOTE: Section 40-55-09 was also amended by section 13 of Senate Bill No. 2047, chapter 608.

district tax funds for the operation of a public recreation system, a community center, or character building facility.

SECTION 29. AMENDMENT. Section 40-57.1-03 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57.1-03. Municipalities' authority to grant tax exemption - Notice to competitors - Limitations. Municipalities are hereby authorized and empowered, in their discretion, as limited hereafter, to grant, after negotiation with a potential project operator, partial or complete exemption from ad valorem taxation on all tangible property used in or necessary to the operation of a project for a period not exceeding five years from the date of commencement of project operations, which date shall be determined by the tax commissioner. Provided, however, that the exemption granted under this chapter shall apply only to the valuation over and above the assessed taxable valuation placed upon the property for the last assessment period immediately preceding the date of application for exemption. Negotiations with potential project operators for tax exemption shall be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if such project is proposed to be located outside the corporate limits of any city. A partial exemption shall be stated as a percentage of the total ad valorem taxes assessed against the property. The potential project operator shall publish two notices, the form of which shall be prescribed by the state board of equalization, to competitors of such application for tax exemption in the official newspaper of the municipality at least one week apart. Such publications shall be completed not less than fifteen nor more than thirty days before the governing body of the municipality is to consider such application. The municipality shall, before granting any such exemption, make application to the state board of equalization for approval, and the board shall, if it finds that such exemption will not result in unfair tax reduction competition between political subdivisions of this state, determine whether the granting of the exemption is in the best interest of the people of North Dakota, and if it so determines, shall give its approval. The board shall, after making the determination, certify the findings back to the municipality and to the tax commissioner.

* **SECTION 30. AMENDMENT.** Section 40-57.2-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57.2-04. City or county may make tax levy. Any city or county in this state, after resolution by its governing body that the question be submitted to its electors shall upon the approval thereof at a regular or special election by sixty percent of the qualified electors of such city or county voting in said regular or special election may levy a tax of not to exceed one mill upon its net taxable assessed valuation for the purpose of providing funds for vocational and on-the-job training services and surveys and otherwise carry out the provision under this chapter. The levy

* **NOTE:** Section 40-57.2-04 was also amended by section 50 of Senate Bill No. 2065, chapter 606.

provided for in this section shall be over and above any tax levy limitations provided by law. No levy for a specific year shall be made if the balance in the fund remaining from levies in prior years is in excess of ten thousand dollars.

* SECTION 31. AMENDMENT. Section 40-59-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-59-01. Two-mill armory or memorial levy. The governing body of any municipality maintaining an armory annually may levy a tax in addition to all levies now authorized by law, and not subject to the mill levy limitations prescribed by law, of not to exceed two mills on the net taxable assessed valuation of all property in the municipality for armory or memorial hall maintenance, repair, alteration, and reconstruction.

A municipality shall in no case levy such tax, unless the governing body of the municipality shall have submitted to the voters of the municipality according to the procedure set forth in this chapter, the question of levying a tax for the purposes authorized by this statute, not to exceed two mills on the dollar in any one year upon the assessed taxable valuation of all property in the municipality. Then, if the majority of the electors voting on the question approved such levy, there shall be levied, spread, and collected such tax as other taxes are collected in and for such municipality.

** SECTION 32. AMENDMENT. Subsection 3 of section 52-09-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The political subdivision, except a multidistrict special education board and a center board of a multidistrict vocational education center, is hereby authorized and directed to levy a tax sufficient to meet its obligations under the provisions of this chapter, and, in the case of a school district, to provide that district's share of contribution to the old-age survivors' fund for contracted employees of a multidistrict special education board, up to a maximum levy of forty mills on each dollar of the net assessed taxable valuation of the political subdivision, over and above any levy limitations now prescribed by law for such political subdivisions. Any obligations under this chapter over and above the amount raised by the maximum levy permitted in this section shall be paid out of the general fund of the political subdivision.

SECTION 33. AMENDMENT. Section 54-24.2-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24.2-03. Incentive for local funding. To provide for increased local funding, public libraries eligible to receive funds under

* NOTE: Section 40-59-01 was also amended by section 51 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 52-09-08(3) was also amended by section 14 of Senate Bill No. 2047, chapter 608, and section 54 of Senate Bill No. 2065, chapter 606.

section 54-24.2-02 shall have the funds allocated to them modified in accordance with the following formula:

Cities levying

8.00 or more mills	150 percent of allocation
6.00 - 7.99 mills	125 percent of allocation
4.00 - 5.99 mills	100 percent of allocation
3.00 - 3.99 mills	75 percent of allocation
2.00 - 2.99 mills	50 percent of allocation
1.00 - 1.99 mills	33 percent of allocation
0.01 - 0.99 mills	25 percent of allocation
0.00 - mills	0 percent of allocation

Counties levying

4.00 or more mills	150 percent of allocation
3.00 - 3.99 mills	125 percent of allocation
2.00 - 2.99 mills	100 percent of allocation
1.50 - 1.99 mills	75 percent of allocation
1.00 - 1.49 mills	50 percent of allocation
0.50 - 0.99 mills	33 percent of allocation
0.01 - 0.49 mills	25 percent of allocation
0.00 - mills	0 percent of allocation

The computation of mills shall be based upon the levy on the ~~net~~ assessed taxable valuation and the mill levy equivalent of other public funds received and deposited in the library fund for the operation of the library by the governing body during the preceding fiscal year as certified by the auditor of the city or county operating the library.

SECTION 34. AMENDMENT. Subsections 7 and 16 of section 57-02-01 of the 1981 Special Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

7. "Net assessed Taxable valuation" signifies the valuation remaining after deducting exemptions and making other reductions from the original ~~full~~ assessed valuation, and is the valuation upon which the rate of levy finally is computed and against which the taxes finally are extended.
16. "Assessed valuation" means fifty percent of the true and full value of property. The definition of "assessed valuation" in this subsection shall ~~not~~ apply to sections 4-16-02, 11-11-24, 11-29-05, 23-14-11, 23-18-01, 23-18-02, 23-18-03, 24-05-01, 40-18-07, 40-55-08, subsections 20 and 22 of section 57-02-08, and section 57-02-08-1, and the meaning of the term "assessed valuation" in these sections is the meaning of such term prior to the enactment of this subsection.

* SECTION 35. AMENDMENT. Subsections 20, 22, and 26 of section 57-02-08 of the 1981 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- * NOTE: Section 57-02-08(20) was also amended by section 2 of House Bill No. 1373, chapter 598; section 57-02-08(22) was also amended by section 1 of Senate Bill No. 2258, chapter 599.

20. Fixtures, buildings, and improvements up to the amount of valuation specified, when owned and occupied as a homestead, as hereinafter defined, by any of the following persons:
- a. A paraplegic disabled veteran of the United States armed forces or any veteran who has been awarded specially adapted housing by the veterans' administration, or his unremarried widow if such veteran is deceased; provided, that this exemption shall not exceed twenty ten thousand dollars of assessed taxable valuation.
 - b. A disabled veteran of the United States armed forces who was discharged under honorable conditions or who has been retired from the armed forces of the United States with an armed forces service-connected disability of fifty percent or greater, or his unremarried widow if such veteran is deceased, if the income of such veteran and his wife, or if such veteran is deceased the income of his unremarried widow, in the calendar year prior to the year for which the exemption is claimed did not exceed the maximum amount of income provided in section 57-02-08.1 for receiving a homestead credit under that section exclusive of any compensation or pension for service-connected disability from the United States government; provided, that this exemption shall not exceed ten five thousand dollars of assessed taxable valuation.
 - c. Any permanently and totally disabled person who is permanently confined to use of a wheelchair, or, if deceased, the unremarried surviving spouse of such a person, shall be entitled to a reduction of ten five thousand dollars of assessed taxable valuation. If the spouse of such a permanently and totally disabled person owns the homestead or if it is jointly owned by them, the same reduction in assessed taxable valuation shall apply as long as both reside thereon. The provisions of this subdivision shall not reduce the liability for special assessments levied upon the homestead. The phrase "permanently confined to use of a wheelchair" means that the person cannot walk with the assistance of crutches or any other device and will never be able to do so and that a physician selected by the local governing board has so certified.

Any person claiming an exemption under this subsection for the first time shall file with the county auditor an affidavit showing the facts herein required and a description of the property and, in addition, a disabled veteran claiming exemption under subdivision b shall also

file with his affidavit a certificate from the United States veterans' administration, or its successors, certifying to the amount of his disability; such affidavit and certificate shall be open for public inspection. Any such person shall thereafter furnish to the assessor or other assessment officials when requested to do so any information which he believes will support his claim for exemption for any subsequent year.

For purposes of this subsection "homestead" shall have the meaning provided in section 47-18-01 except that it shall also apply to any person who otherwise qualifies under the provisions of this subsection whether or not such person is the head of a family. The board of county commissioners is hereby authorized to cancel the unpaid taxes for any year in which such veteran shall have held title to such exempt property.

22. All or any part of fixtures, building, and improvements upon any nonfarmland up to ~~an~~ assessed a taxable valuation of ~~ten~~ five thousand dollars, owned and occupied as a home by a blind person. Homes owned by the spouse of a blind person, or jointly owned by a blind person and spouse, shall also be exempt within the limits of this subsection as long as the blind person resides in the home. For purposes of this subsection a blind person shall be defined as one who is totally blind, has visual acuity of not more than 20/200 in the better eye with correction, or whose vision is limited in field so that the widest diameter subtends an angle no greater than twenty degrees.
26. Fixtures, buildings, and improvements up to a ~~net~~ assessed taxable valuation of ten thousand dollars when owned and occupied as a homestead, as hereinafter defined, by a paraplegic disabled person, or if such person is deceased the unremarried spouse, if the income from all sources of such person and spouse, or if such person is deceased the income from all sources of the unremarried surviving spouse, in the calendar year prior to the year for which the exemption is claimed did not exceed the maximum amount of income provided in section 57-02-08.1 for receiving a homestead credit under that section. To obtain such exemption for the first time, a certificate from a medical doctor who is approved by the board of county commissioners, accompanied by an affidavit, showing the facts herein required and a description of the property, shall be filed with the county auditor. Such affidavit and accompanying certificate shall be opened to public inspection. Any person claiming the exemption for any year after the first year shall furnish to the assessor or other assessment officials when requested to do so any information which he believes will support his claim for the exemption for any subsequent year. For purposes of this subsection "homestead" shall have the meaning

provided in section 47-18-01 except that it shall also apply to any person who otherwise qualifies under the provisions of this subsection whether or not such person is the head of a family. The board of county commissioners is hereby authorized to cancel the unpaid taxes for any year in which such person shall have held title to such exempt property.

* SECTION 36. AMENDMENT. Subsection 1 of section 57-02-08.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any person sixty-five years of age or older in the year in which the tax was levied, or any person who is permanently and totally disabled as certified by a physician selected by the local governing body, with an income of ten thousand 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 on the assessed taxable 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. The exemption to which any person may be entitled shall be determined according to the following schedule:
 - a. If the person's income is not in excess of five thousand five hundred dollars, a reduction of one hundred percent of the assessed taxable valuation of the person's homestead up to a maximum reduction of ~~four~~ two thousand dollars of assessed taxable valuation.
 - b. If the person's income is in excess of five thousand five hundred dollars and not in excess of six thousand five hundred dollars, a reduction of eighty percent of the assessed taxable valuation of the person's homestead up to a maximum reduction of ~~three one~~ six hundred dollars of assessed taxable valuation.
 - c. If the person's income is in excess of six thousand five hundred dollars and not in excess of seven thousand five hundred dollars, a reduction of sixty percent of the assessed taxable valuation of the person's homestead up to a maximum reduction of ~~two one~~ two hundred dollars of assessed taxable valuation.
 - d. If the person's income is in excess of seven thousand five hundred dollars and not in excess of eight

* NOTE: Section 57-02-08.1(1) was also amended by section 1 of Senate Bill No. 2233, chapter 602.

thousand five hundred dollars, a reduction of forty percent of the assessed taxable valuation of the person's homestead up to a maximum reduction of ~~one thousand six~~ eight hundred dollars of assessed taxable valuation.

- e. If the person's income is in excess of eight thousand five hundred dollars and not in excess of ten thousand dollars, a reduction of twenty percent of the assessed taxable valuation of the person's homestead up to a maximum reduction of ~~eight~~ four hundred dollars of assessed taxable valuation.

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 or is permanently and totally disabled and that such income, including that of any dependent, as determined in this chapter does not exceed ten thousand dollars per annum. The term "dependent" shall include the spouse, if any, of the person claiming the exemption. The assessor shall attach such statement to the assessment sheet and shall show the reduction on the assessment sheet.

* SECTION 37. AMENDMENT. Section 57-02-27 of the 1981 Special Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-27. Property to be valued at a percentage of assessed value - Classification of property - Limitation on valuation of annexed agricultural lands. All property subject to taxation based on the value thereof shall be valued as follows:

1. All residential property to be valued at nine percent of assessed value. If any property is used for both residential and nonresidential purposes, the valuation shall be prorated accordingly.
2. All agricultural property to be valued at ten percent of assessed value as determined pursuant to section 57-02-27.2.
3. All commercial and railroad property to be valued at ten percent of assessed value.
4. All centrally assessed property, except railroad property, to be valued at fourteen percent of assessed value for the 1981 property tax year, thirteen percent of assessed value for the 1982 property tax year, twelve percent of assessed

* NOTE: Section 57-02-27 was also amended by section 2 of Senate Bill No. 2179, chapter 592.

value for the 1983 property tax year, eleven percent of assessed value for the 1984 property tax year, and ten percent of assessed value for all property tax years beginning on or after January 1, 1985.

The resulting amounts shall be known as the taxable ~~or net~~ assessed valuation. In determining the assessed value of real and personal property, except agricultural property, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall he adopt as a criterion of value the price at which said property would sell at auction, or at forced sale, or in the aggregate with all the property in the town or district, but he shall value each article or description by itself, and at such sum or price as he believes the same to be fairly worth in money. In assessing any tract, or lot of real property, there shall be determined the value of the land, exclusive of improvements, and the value of all taxable improvements and structures thereon, and the aggregate value of the property, including all taxable structures and other improvements, excluding the value of crops growing upon cultivated lands. In valuing any real property upon which there is a coal or other mine, or stone or other quarry, the same shall be valued at such a price as such property, including the mine or quarry, would sell for at a fair voluntary sale for cash. Agricultural lands within the corporate limits of a city which are not platted shall constitute agricultural property and be so classified and valued for ad valorem property tax purposes until such lands are put to another use. Agricultural lands, whether within the corporate limits of a city or not, which were platted and assessed as agricultural property prior to March 30, 1981, shall be assessed as agricultural property for ad valorem property tax purposes until put to another use. Such valuation shall be uniform with the valuation of adjoining unannexed agricultural land.

SECTION 38. AMENDMENT. Section 57-02-28 of the 1981 Special Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-28. Basis for computation of tax. The value of all property subject to a general property tax to be used in the computation of taxes levied thereon shall be its taxable ~~or net~~ assessed valuation as computed pursuant to section 57-02-27.

SECTION 39. AMENDMENT. Section 57-09-06 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-09-06. Assessor's statement and return to auditor. The assessor shall add and note the amount of each column in his assessment books after making the corrections ordered by the township board of equalization. He also shall make in each book a tabular statement showing the footings of the several columns upon the page, and shall add and set down under the respective headings the total amount of the several columns. On or before the fourth Monday in April in

each year he shall make returns to the county auditor of his assessment books, and shall deliver therewith the lists and statements of all persons assessed, all of which shall be filed and preserved in the office of the county auditor. Such returns shall be verified by his affidavit substantially in the following form:

STATE OF NORTH DAKOTA)
)
) ss.
County of _____)

I, _____, assessor of _____, do solemnly swear that the book to which this is attached contains a full list of all property subject to taxation in _____ so far as I have been able to ascertain, and that the assessed value set down in the columns opposite the several kinds and descriptions of property in each case is fifty percent of the true and full value of such property, to the best of my knowledge and belief, except where and as corrected by the township board of equalization, and that the footings of the several columns in said book, and the tabular statement returned herewith, are correct, as I verily believe.

Assessor

Subscribed and sworn to before me this _____ day of _____, 19 _____.

Auditor of _____
County, North Dakota

SECTION 40. AMENDMENT. Section 57-12-09 of the 1981 Supplement to 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 fifteen percent or more of the last assessment, 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 except that no such notice need be delivered or mailed if the assessment is increased by less than three one thousand five hundred dollars. The tax commissioner shall prescribe suitable forms for this notice and such notice shall also show the true and full value as defined by law of the property, including such improvements, 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.

SECTION 41. AMENDMENT. Section 57-15-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-02. Determination of rate. The tax rate of all taxes, except taxes the rate of which is fixed by law, shall be calculated and fixed by the county auditor within the limitations prescribed by statute. If any municipality shall levy a greater amount than the prescribed maximum legal rate of levy will produce, the county auditor shall extend only such amount of tax as the prescribed maximum legal rate of levy will produce. The rate shall be based and computed on the aggregate net assessed taxable valuation of taxable property in the municipality or district levying the tax. The rate of all taxes shall be calculated by the county auditor in mills, tenths, and hundredths of mills.

* SECTION 42. AMENDMENT. Section 57-15-06 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06. Limitations on county tax levies. County tax levies shall be limited as follows:

1. The board of county commissioners shall not levy any taxes for general or special county purposes which will exceed the amount produced by a levy of twenty-three mills on the dollar of the net taxable valuation of the county.
2. The board of county commissioners annually shall levy taxes sufficient to meet the obligations of the county for the maintenance of its patients in the charitable institutions of the state, but such taxes shall not exceed the amount produced by a levy rate of one and one-quarter mills on the dollar of net taxable valuation. Such levy shall be within the amount produced by the twenty-three-mill rate, and shall be a paramount charge, to the exclusion of all other budget items, upon the necessary part of the total tax levies; provided, that any funds now on hand or hereinafter levied for the purpose of this subsection shall not, in the discretion of the board of county commissioners, be included in the budget of the county.
3. The twenty-three-mill limitation shall apply to all tax levies which the county is authorized to levy for general and special county purposes, including taxes levied for road and bridge purposes. Any unexpended balance in the county road fund at the end of the fiscal year may be transferred to a special road fund, except that such special fund shall never exceed the amount a ten-mill levy on the assessed taxable valuation of the county would

* NOTE: Section 57-15-06(3) was also amended by section 68 of Senate Bill No. 2065, chapter 606.

yield, and the balance in said fund shall not be considered in determining the budget or the amount that may be levied. Such mill limitation shall not apply:

- a. To tax levies made for the purpose of paying the principal interest on any obligations of the county evidenced by the issuance of bonds.
- b. Repealed by S.L. 1981, ch. 198, § 18.
- c. To taxes levied for the purpose of combating gophers pursuant to section 4-16-02.
- d. To taxes levied pursuant to any statute which expressly provides that the taxes authorized to be levied therein shall not be subject to the twenty-three-mill limitations for general and special county purposes.
- e. To taxes levied for the purpose of establishing and maintaining a library fund for public library services.
- f. To taxes levied for road and bridge purposes pursuant to the election provisions of section 24-05-01.
- g. To taxes levied for the purpose of constructing, equipping, operating, and maintaining regional or county corrections centers.

* SECTION 43. AMENDMENT. Subsection 1 of section 57-15-06.3 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The board of county commissioners of any county in this state may prepare a proposed county construction program of farm to market and federal aid roads on the county road system, setting forth a general description of the roads to be constructed, the location of bridges constituting a part of the program, the approximate total mileage, and the priority of construction. After approval of the program by the state highway department and the federal highway administration, the board may submit the program to the electors of the county with the question of levying a tax of not to exceed fifteen mills upon the net taxable assessed valuation of all property in the county for the completion of the program by matching, from the proceeds of the tax, federal funds available for federal aid, secondary and feeder roads, farm to market roads, and all roads as provided for under federal aid highway Acts. If the majority of the electors voting on the question approved the program and levy, the board shall levy a tax not in excess of fifteen mills. The levy shall not be subject to the county mill levy limitations. The proceeds

* NOTE: Section 57-15-06.3(1) was also amended by section 69 of Senate Bill No. 2065, chapter 606.

of the tax shall be used, except as provided in this section, only for matching federal aid available for the program which shall be the official county road program.

* SECTION 44. AMENDMENT. Section 57-15-06.4 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.4. Levy authorized for county veterans' service officer's salary, traveling, and office expenses. The county commissioners of each county may levy annually a tax of not to exceed one and one-fourths mills on the dollar of the net assessed taxable valuation of the county, to provide a fund, for the payment of the salary, traveling, and office expenses of the county veterans' service officer authorized to be appointed by section 37-14-18. Such levy shall not be limited by the provisions of section 57-15-06.

** SECTION 45. AMENDMENT. Section 57-15-06.5 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.5. Tax levy for planning purposes. The board of county commissioners, when authorized to do so by sixty percent of the electors voting upon the question in a regular or special election called by the county commissioners, may levy up to three mills on the net taxable assessed valuation for planning purposes. Such levy shall be in addition to and not restricted by any levy limitations prescribed by law. The proceeds of a levy pursuant to this section shall be used only for county planning purposes, and shall not be used to directly fund a regional planning council. However, proceeds of a levy pursuant to this section may be used by the levying county to enter into a contract with a regional planning council for single county planning services for the levying county.

*** SECTION 46. AMENDMENT. Section 57-15-06.6 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.6. Levy authorized for regional or county corrections centers. The board of county commissioners of each county may levy an annual tax of not to exceed five mills on the net taxable assessed valuation of the county for the purpose of constructing, equipping, operating, and maintaining regional or county corrections centers.

SECTION 47. AMENDMENT. Section 57-15-08 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-08. Tax levy limitations in cities. The aggregate amount levied for general city purposes shall not exceed such an amount as will be produced by a levy of thirty-eight mills on the net taxable assessed valuation of property in the city, provided that in cities with a population of over five thousand they be permitted to levy an additional one-half of one mill for each additional one thousand

* NOTE: Section 57-15-06.4 was also amended by section 70 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 57-15-06.5 was also amended by section 71 of Senate Bill No. 2065, chapter 606.

*** NOTE: Section 57-15-06.6 was also amended by section 72 of Senate Bill No. 2065, chapter 606.

population in excess of five thousand, and provided further that the maximum levy for general city purposes shall not exceed forty mills, except that cities, when authorized by a majority vote of the electors of such cities upon the submission of such question at a regularly scheduled or special election called for such purpose pursuant to a resolution approved by the governing body of such cities, may increase the maximum mill levy for general city purposes by not more than ten mills, and that in a city supporting a band or public library an additional levy, not to exceed one mill on the net taxable assessed valuation of property in such city, may be made for a band, and an additional levy not to exceed four mills on the net taxable assessed valuation of property in such city may be made for a public library.

* SECTION 48. AMENDMENT. Subsection 4 of section 57-15-10 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Taxes levied for the purpose of paying any final judgment or judgments obtained against any city, if the aggregate amount levied for the purpose of paying any final judgment or judgments shall not exceed such amount as will be produced by a levy of five mills on the net taxable assessed valuation of the property in such city. This section shall not be deemed or construed to modify, qualify, or limit the authority of any city to issue bonds pursuant to law in case the governing body of any such city shall not deem it advisable to pay such judgment or judgments out of current revenues.

** SECTION 49. AMENDMENT. Section 57-15-10.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

SECTION 50. AMENDMENT. Section 57-15-12 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 57-15-10 was also amended by section 73 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 57-15-10.1 was also amended by section 74 of Senate Bill No. 2065, chapter 606.

57-15-12. Tax levy limitations in park districts. In park districts tax levies shall have the following limitations:

1. The aggregate amount levied for park district purposes, exclusive of levies to pay interest on bonded debt and levies to pay and discharge the principal thereof, and levies to pay the principal and interest on special assessments assessed and levied against park board properties by other municipalities, shall not exceed such amount as will be produced by a levy of four mills on the dollar of the net taxable assessed valuation of the district for the current year.
2. Any park district owning and operating an airport for which no city levy is made, may levy an additional tax, regardless of the foregoing limitations and in addition to the levies hereinbefore provided for, of not to exceed four mills on the dollar of the net taxable assessed valuation of the district for the current year, such additional tax to be used solely for the purpose of purchasing or acquiring lands necessary for said airport, paying for land previously acquired for said airport, and for operating and maintaining the same.
3. Whenever the board of park commissioners deems it advisable to raise moneys by taxes in excess of the levy herein provided, for any purpose for which the park district is authorized to expend moneys raised by taxes, the board of park commissioners shall submit to the voters of the district the question of increasing the levy by a certain number of mills, but not to exceed fifteen mills, on the dollar of the net taxable assessed valuation of the district. When authorized by a majority of the qualified electors of the park district voting on the question at an election in which the question has been submitted, the board may increase the levy in the amount so authorized. This excess levy may be continued from year to year by action of the park board except that if a petition containing the signatures of not less than ten percent of the electors of the park district, as determined by the city auditor of the municipality in which the park district is situated, is presented to the park board requesting an election on the question of continuing the excess levy, that question shall be submitted to the electors of the park district at the next regular park district election. If the majority of the voters at that election determine not to continue the excess levy, no further excess levy shall be made except that the election shall not affect the tax levy in the calendar year in which the election is held.

SECTION 51. AMENDMENT. Subsection 1 of section 57-15-12.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The governing body of a city or park district, upon approval by a fifty-five percent vote of the electors at any citywide or districtwide election, may annually levy a tax not in excess of five mills on the net taxable assessed valuation of property within the city or park district, for the purpose of providing funds for the establishment, operation, and maintenance of forestry activities within the city or park district. Any such tax shall be in addition to and not restricted by any mill levy limit prescribed by law. The proceeds of any such levy may be used for forestry activities, including, but not limited to, the following: prevention or control of Dutch elm disease or other diseases which may affect trees, shrubs, and other vegetation; purchasing, planting, or removal of trees, shrubs, and other vegetation; pruning and maintenance of trees, shrubs, and other vegetation; purchasing of necessary equipment; hiring of personnel; contracting for services; public information and technical assistance; and other items related to forestry activities which may be necessary to provide for proper care, maintenance, propagation, and improvement of forestry resources within the city or park district.

* SECTION 52. AMENDMENT. Section 57-15-14 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-14. Tax levy limitations in school districts. The aggregate amount levied by any school district, except the Fargo school district, shall not exceed such amount as will be produced by a levy of twenty-four mills on the dollar of the net assessed taxable valuation of the district, except that:

1. In any school district having a total population in excess of four thousand according to the last federal decennial census:
 - a. There may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the electors voting upon the question at any regular or special school district election.
 - b. There shall be no limitation upon the taxes which may be levied if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted to and approved by a majority of the electors voting at any regular or special election upon such question.
2. In any school district having a total population of less than four thousand according to the last federal decennial census, there may be levied any specific number of mills that upon resolution of the school board has been approved

* NOTE: Section 57-15-14 was also amended by section 15 of Senate Bill No. 2047, chapter 608, by section 2 of House Bill No. 1253, chapter 202, and by section 1 of Senate Bill No. 2186, chapter 607.

by sixty percent of the electors voting upon the question at any regular or special school election.

The question of authorizing or discontinuing such specific number of mills authority or unlimited taxing authority in any school district shall be submitted to the electorate at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of electors of the district equal in number to twenty percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, unless such census is greater than four thousand in which case only fifteen percent of the number of persons enumerated in the school census shall be required. However, not fewer than twenty-five signatures shall be required unless the district has fewer than twenty-five electors, in which case the petition shall be signed by not less than twenty-five percent of the electors of the district. In those districts with fewer than twenty-five electors, the number of electors in the district shall be determined by the county superintendent for such county in which such school is located. However, the approval of discontinuing either such authority shall not affect the tax levy in the calendar year in which the election is held. The election shall be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy.

* SECTION 53. AMENDMENT. Section 57-15-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-15. Exceptions to tax levy limitations in school districts. The tax levy limitations specified in section 57-15-14 shall not apply to the following items:

1. Taxes levied for the purpose of paying interest on a bonded debt of the district, or levies made to pay and discharge the principal thereof at maturity;
2. Taxes levied for the purpose of paying any final judgment or judgments obtained against the school district, if the aggregate amount levied for the purpose of paying such judgment shall not exceed such amount as will be produced by a levy of five mills on the net taxable assessed valuation of property in the district. This section shall not be deemed or construed to modify, qualify, or limit the authority of any school district to issue bonds pursuant to law in case the governing body of such school district shall not deem it advisable to pay such judgment out of current revenues.

** SECTION 54. AMENDMENT. Section 57-15-18.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 57-15-15 was repealed by section 22 of Senate Bill No. 2047, chapter 608, and amended by section 75 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 57-15-18.1 was also amended by section 76 of Senate Bill No. 2065, chapter 606, and repealed by section 22 of Senate Bill No. 2047, chapter 608.

57-15-18.1. Tax levy for rental of property. Any school district upon approval by its governing board may levy taxes annually, not in excess of five mills on the net taxable assessed valuation of the district, for the rental or leasing of buildings, property, or classroom space. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law. Minimum state standards for health and safety applicable to school building construction shall apply to any rented or leased buildings, property, or classroom space.

* SECTION 55. AMENDMENT. Section 57-15-18.2 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-18.2. School district levy for unemployment compensation benefits. The school board of any school district, upon the passage of a proper resolution, may levy a tax of not to exceed two mills on the net taxable assessed valuation of the school district for the purpose of covering the cost of unemployment compensation benefits. The mill levy authorized by this section shall be in addition to any mill levy limitations provided by law.

** SECTION 56. AMENDMENT. Subsection 1 of section 57-15-19.4 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The electors of each township shall have power at the annual meeting to levy not over five mills on the dollar of the net taxable assessed valuation for the purpose of cooperating with the county in constructing and maintaining federal aid farm to market roads within such township. The tax levy provided herein shall be over and above the limitations specified in section 57-15-20 and shall be made only if notice of the question of the approval of such levy has been included with or upon the notice of the annual meeting provided for in section 58-04-01.

*** SECTION 57. AMENDMENT. Section 57-15-19.5 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-19.5. Township levy for law enforcement - Authorization - Cooperation with other political subdivisions. The electors of an organized township may authorize the levy of an amount not to exceed five mills on the dollar of the net taxable assessed valuation for the purpose of hiring law enforcement personnel. Such authorization shall be granted upon a favorable vote of sixty percent of the electors present and voting on the question at the general election immediately succeeding the annual township meeting, provided the question has been included in the annual meeting notice issued by the township clerk pursuant to section 58-04-01. The mill levy authorized by this section shall not be subject to the mill levy limitation imposed by section 57-15-20. In providing for law

* NOTE: Section 57-15-18.2 was also amended by section 77 of Senate Bill No. 2065, chapter 606, and repealed by section 22 of Senate Bill No. 2047, chapter 608.

** NOTE: Section 57-15-19.4 was also amended by section 78 of Senate Bill No. 2065, chapter 606.

*** NOTE: Section 57-15-19.5 was also amended by section 79 of Senate Bill No. 2065, chapter 606.

enforcement services, the board of supervisors may cooperate with one or more additional townships, with a city, or with the county in accordance with the provisions of section 54-40-08.

* SECTION 58. AMENDMENT. Section 57-15-19.6 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-19.6. Township levy for mowing or snow removal equipment. The electors of each township shall have power at the annual meeting to levy not more than three mills on the dollar of the net taxable assessed valuation of taxable property in the township for the purpose of buying and operating mowing or snow removal equipment. The tax levy provided herein shall be over and above the limitations specified in section 57-15-20 and shall be made only if notice of the question of the approval of such levy has been included with or upon the notice of the annual meeting provided for in section 58-04-01.

SECTION 59. AMENDMENT. Section 57-15-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-20. Tax levy limitations in townships. The total amount of the annual tax levy in a civil township, exclusive of levies to pay interest on any bonded debt and to provide a sinking fund to pay and discharge the principal thereof at maturity, shall not exceed such amount as will be produced by a levy of eighteen mills on the dollar of the net taxable assessed valuation thereof.

SECTION 60. AMENDMENT. Section 57-15-22 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-22. Tax levy limitations in unorganized townships. The total tax levied by the board of county commissioners in any unorganized township for the construction, maintenance, and improvement of any roads and bridges shall not exceed eighteen mills on the dollar of the net taxable assessed valuation of the township, but this shall not prohibit the levy of general county road and bridge taxes in such unorganized township.

SECTION 61. AMENDMENT. Section 57-15-27.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-27.1. Cemetery tax levies. Organized townships and cities are hereby authorized to levy a tax, not exceeding two mills on the dollar of the net assessed taxable valuations of the organized townships or cities, in addition to all levies now authorized by law, for the purpose and to be used exclusively for the care, maintenance, and improvement of established cemeteries, owned and maintained by such organized townships or cities.

* NOTE: Section 57-15-19.6 was also amended by section 80 of Senate Bill No. 2065, chapter 606.

SECTION 62. AMENDMENT. Section 57-15-27.2 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-27.2. Abandoned cemetery tax levies. The governing body of any county may levy a tax, not exceeding one-tenth of one mill on the dollar of the net assessed taxable valuations of the county, in addition to all levies now authorized by law, for the purpose of defraying the expenses incurred in the maintenance of abandoned cemeteries as provided by section 23-06-30.

* SECTION 63. AMENDMENT. Section 57-15-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-28. Emergency fund - County. The governing body of any county may levy a tax for emergency purposes which shall not exceed the amount produced by the levy of one mill on the dollar of the net taxable valuation of the county. Such emergency fund and the sums therein shall not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes, but shall be shown in such budget as an "emergency fund" and shall not be deducted from the budget as otherwise provided by law. Each county may create an emergency fund, and all taxes levied for emergency purposes by any county, when collected, shall be covered into such emergency fund, and shall be used only for emergency purposes caused by the destruction or impairment of any county property necessary for the conduct of the affairs of the county, emergencies caused by nature or by the entry by a court of competent jurisdiction of a judgment for damages against the county. The emergency fund shall not be used for any road construction or maintenance, except for repair of roads damaged by nature within sixty days preceding such determination to expend emergency funds, or for the purchase of road equipment. Any unexpended balance, remaining in the emergency fund at the end of any fiscal year, shall be kept in such fund. When the amount of money in the emergency fund, plus the amount of money due the fund from outstanding taxes, shall equal the amount produced by a levy of five mills on the taxable valuation, the levy of one mill for emergency purposes shall be discontinued, and no further levy shall be made for this purpose until another levy of one mill or less is required to replenish the emergency fund.

** SECTION 64. AMENDMENT. Section 57-15-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-36. Tax levy for airport purposes. In cities supporting airports for which no levy has been made by a park board or other taxing district within the corporate limits of such city, a levy in addition to all other levies permitted by law, not to exceed four mills on the net taxable valuation of property in such city, may be made for such purposes.

*** SECTION 65. AMENDMENT. Section 57-15-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 57-15-28 was also amended by section 81 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 57-15-36 was also amended by section 82 of Senate Bill No. 2065, chapter 606.

*** NOTE: Section 57-15-37 was also amended by section 83 of Senate Bill No. 2065, chapter 606.

57-15-37. Tax levy for airport purposes in park districts. In park districts supporting airports, a levy in addition to all other levies permitted by law but not to exceed four mills on the net taxable assessed valuation of property in such park district may be made for such purpose; provided, however, that said levy may be made by not more than one of the said political subdivisions in any one taxing district.

* SECTION 66. AMENDMENT. Section 57-15-37.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-37.1. Township levy for airport purposes. The electors of each township may vote at the annual meeting to levy a tax for the purpose of supporting an airport or an airport authority in an amount not exceeding four mills on the net assessed taxable valuation of the township, which levy shall be in addition to any mill levy limitations provided by law. The mill levy provided in this section shall not apply to any city, park district, or other taxing district that already has an airport levy.

** SECTION 67. AMENDMENT. Section 57-15-42 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-42. City fire department reserve fund levy. The governing body of any city, when authorized to do so by sixty percent of the electors voting on the question in a regular or special election called by the governing body, may levy taxes annually, not in excess of five mills on the net taxable assessed valuation, for a fire department building or equipment reserve fund. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law. The proceeds of such levy shall be placed in a separate fund known as the fire department reserve fund and shall be used solely and exclusively for the purchase of necessary firefighting equipment or building therefor. No levy shall be made under this section during any period in which the moneys in the fund equal or exceed an amount equal to the sum that would be produced by a levy of thirty mills upon the net taxable assessed valuation of the city making such levy.

*** SECTION 68. AMENDMENT. Section 57-15-48 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-48. Tax levy for emergency purposes. The governing body of any municipal corporation by a two-thirds vote may levy a tax annually for snow removal, natural disaster, or other emergency conditions not in excess of one mill on the net taxable assessed valuation of property within such municipal corporation, which levy shall be in addition to and not restricted by the levy limitations prescribed by law. No city shall make such levy after the amount of the unexpended funds raised by such levy shall equal three dollars per capita.

* NOTE: Section 57-15-37.1 was also amended by section 84 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 57-15-42 was also amended by section 86 of Senate Bill No. 2065, chapter 606.

*** NOTE: Section 57-15-48 was also amended by section 89 of Senate Bill No. 2065, chapter 606.

* SECTION 69. AMENDMENT. Section 57-15-50 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-50. Levy authorized for county ambulance service. Upon petition of ten percent of the number of qualified electors of the county voting in the last election for governor or upon its own motion, the board of county commissioners of each county shall levy annually a tax of not to exceed five mills on the net taxable assessed valuation of the county, for the purpose of subsidizing county ambulance services, provided that such tax shall be approved by a majority of the voters of the county at a regular or special countywide election. The mill levy provided by this section shall not be subject to the mill levy limitations for general and special county purposes contained in section 57-15-06. The county may budget, in addition to its annual operating budget for subsidizing ambulance service, no more than ten percent of its annual operating budget as a depreciation expense to be set aside in a dedicated ambulance sinking fund deposited with the treasurer for the replacement of equipment and ambulances. The ten percent ambulance sinking fund shall be in addition to the annual operating budget for subsidization, but the total of the annual operating budget and the annual ten percent ambulance sinking fund shall not exceed the approved mill levy.

SECTION 70. AMENDMENT. Section 57-15-51 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-51. Levy authorized for city ambulance service. Upon petition of ten percent of the number of qualified electors of the city voting in the last election for governor or upon its own motion, the governing body of each city in this state shall levy annually a tax of not to exceed five mills upon its net taxable assessed valuation, for the purpose of subsidizing city ambulance services, provided that such tax shall be approved by a majority of the voters of the city at a regular or special city election. Whenever a tax for county ambulance services is levied by a county, any city levying a tax for, or subsidizing city ambulance services, shall upon written application to the county board of such county be exempted from such county tax levy. The city may set aside, as a depreciation expense, up to ten percent of its annual ambulance service operating or subsidization budget in a dedicated ambulance sinking fund, deposited with the auditor for replacement of equipment and ambulances. The ten percent ambulance sinking fund may be in addition to the actual annual ambulance budget but the total of the annual ambulance budget and the annual ten percent ambulance fund shall not exceed the approved mill levy.

** SECTION 71. AMENDMENT. Section 57-15-51.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 57-15-50 was also amended by section 91 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 57-15-51.1 was also amended by section 92 of Senate Bill No. 2065, chapter 606.

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 approved by the electorate of not to exceed five mills 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.

* SECTION 72. AMENDMENT. Section 57-15-53 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-53. Tax levy for police department stations. Upon approval of a majority of the electors voting thereon at any regular election or special election called for such purpose, the governing body of any city may levy taxes annually, not in excess of two mills on the net taxable assessed valuation, for the purpose of providing additional funds to meet the operational, maintenance, and construction costs of establishing stations for police protection services and correctional facilities. Such levy shall be in addition to and not restricted by the levy prescribed by law. The proceeds of such levy shall be placed in a separate fund known as the police station and correctional facility fund. No levy shall be made under this section during any period in which the moneys to the fund equal or exceed an amount equal to the sum that would be produced by a levy of ten mills upon the net taxable assessed valuation of the city making such a levy.

** SECTION 73. AMENDMENT. Section 57-15-54 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-54. Destruction of weeds along highways - Election to be held on question - Mill levy. Upon resolution by the board of county commissioners, or upon petition by ten percent of the number of qualified electors residing in the county or a county commissioner district who voted for governor at the last general election, the board of county commissioners shall submit the question of a tax levy to cover all costs of cutting or otherwise destroying all weeds, plants, or grass growing along all county or township roads in the county or county commissioner district to the qualified electors of the county or county commissioner district at the next countywide general or special election. If a majority of the qualified electors voting thereon shall approve, a tax shall be levied not to exceed the amount produced by a levy of two mills on the dollar of the net assessed taxable valuation of the county or county commissioner district, as the case may be. The levy of two mills authorized by this section shall be over and above any levy limitations provided by law.

*** SECTION 74. AMENDMENT. Section 57-15-55 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 57-15-53 was also amended by section 95 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 57-15-54 was also amended by section 96 of Senate Bill No. 2065, chapter 606.

*** NOTE: Section 57-15-55 was also amended by section 97 of Senate Bill No. 2065, chapter 606.

57-15-55. Tax levy for public transportation. The governing body of any city, upon approval by a majority vote of the electors of such city at any citywide election, may annually levy a tax not in excess of five mills on the ~~net~~ taxable assessed valuation of property within such city to provide funds for the provision and operation of a public transportation system within such city under a contract approved by such governing body with a private contractor, or by the city itself, which mill levy shall be over and above any mill levy limitations prescribed by law.

* SECTION 75. AMENDMENT. Subsection 1 of section 57-15-56 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The board of county commissioners of any county is hereby authorized to levy a tax, or in the event no levy is made by the board of county commissioners, the governing body of any city is authorized to levy a tax, in addition to all levies now authorized by law, for the purpose of establishing or maintaining programs and activities for senior citizens including the expansion of existing senior citizen centers which will provide recreational and other leisure-time activities, informational, health, welfare, counseling, and referral services for senior citizens, and assisting such persons in providing volunteer community or civic services. Such tax shall not exceed the amount produced by the levy of one mill on a dollar of the ~~net~~ taxable valuation of the county or the city. The proceeds of such tax shall be kept in a separate fund and shall be used exclusively for the public purposes provided for in this section. Such levy shall be in addition to any moneys expended by the board of county commissioners pursuant to section 11-11-58 or by the governing body of any city pursuant to section 40-05-16.

** SECTION 76. AMENDMENT. Section 57-15-57 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-57. 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 social service 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.

* NOTE: Section 57-15-56(1) was also amended by section 98 of Senate Bill No. 2065, chapter 606, and section 1 of Senate Bill No. 2296, chapter 613.

** NOTE: Section 57-15-57 was also amended by section 99 of Senate Bill No. 2065, chapter 606.

* SECTION 77. AMENDMENT. Section 57-19-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-19-04. May levy tax beyond levy limitations. In each year each school district may levy a tax sufficient in amount to establish, maintain, or replenish such special reserve fund, but such levy shall not exceed such an amount as will be produced by a levy of three mills on the net taxable valuation of property in such school district. Such levy shall be in addition to tax levy limitations otherwise specified by law.

SECTION 78. AMENDMENT. Section 57-20-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-02. Tax list made out by county auditor. As soon as practicable after the taxes are levied, and after the levies of the several taxing districts within the county have been certified, the county auditor shall make out the tax lists according to the prescribed form to correspond with the assessment districts of the county. The tax rate percent necessary to raise the required amount of the various taxes shall be calculated on the net assessed taxable valuation of property after equalization by the state board of equalization, but no rate shall be used which results in any fraction of less than one-half of one-tenth of a mill, and in extending any tax, it, whenever it amounts to the fractional part of a cent, shall be made one cent.

SECTION 79. AMENDMENT. Section 57-22-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-16. Procedure when personal property is about to be sold or removed without payment of tax. If a township, city, or county officer learns or believes that there is danger that personal property which has been assessed and upon which any personal property taxes are due or will be due, will be sold, or removed from the county, without payment of the taxes and without leaving sufficient property to pay the whole of such taxes, he shall report such fact to the sheriff, who forthwith shall collect the taxes, or distrain and sell sufficient property to pay the same, if they are not paid on demand, or require an undertaking from the owner in favor of the county treasurer, conditioned that all taxes levied upon such property will be paid when due. Such undertaking shall be approved by the clerk of the district court. If the taxes involved have not been levied, they shall be ascertained by the county auditor by applying the aggregate mill levy of the previous year for the taxing district in which the property is assessed to the current assessed taxable valuation, and if, after the tax for the current year is levied, there is any excess, it shall be refunded to the taxpayer on order of the board of county commissioners. In case a bond has been given, and the taxes are not paid when due, the county treasurer shall bring an action for the taxes and costs in the district court of the county, and the state's attorney shall represent the treasurer in such action on the bond.

* NOTE: Section 57-19-04 was also amended by section 100 of Senate Bill No. 2065, chapter 606, and section 20 of Senate Bill No. 2047, chapter 608.

SECTION 80. AMENDMENT. Section 57-44-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-44-03. **How tax computed and spread.** After the board of county commissioners has levied such tax, the county auditor shall apply the consolidated mill levy for the year for which such levy is made to the ~~net~~ assessed taxable valuation of property involved and shall spread the proper tax charges upon the tax list of the county.

* **SECTION 81. AMENDMENT.** Section 58-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-02-01. **Organization of township - Petition - Election.** If twenty-five percent of the electors who voted for governor in the last general election of a congressional township which has ~~an~~ assessed a taxable valuation of more than ~~forty~~ twenty thousand dollars and which contains twenty-five or more legal voters shall petition the board of county commissioners for the organization of the congressional township into a civil township, the board of county commissioners shall then submit the questions whether said township shall be organized to the electors in the congressional township. Thirty days' published notice in at least one newspaper of general circulation in the township shall be given of the election. If a majority of the votes cast approve of organization, the township shall then be organized, and if the petitions filed for organization did not designate a name, the board of county commissioners shall select one.

SECTION 82. AMENDMENT. Subsection 18 of section 58-03-07 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18. To authorize the expenditure of funds to pay membership fees in county, state, and national associations of township governments. The expenditures shall not exceed the equivalent of the proceeds of one-tenth of one mill of the ~~net~~ taxable valuation of the township, and may be any lesser amount. This subsection shall not be construed to authorize a mill levy.

** **SECTION 83. AMENDMENT.** Section 58-17-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-17-02. **Townships - Parks - Tax levy for park purposes.** In townships supporting parks, a levy in addition to all other levies permitted by law, not to exceed two mills of the ~~net~~ taxable valuation of property in such township, may be made for such purposes, but such levies shall not apply to property in any city or park district which levies for park district purposes.

*** **SECTION 84. AMENDMENT.** Subsection 3 of section 61-04.1-24 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 58-02-01 was also amended by section 1 of Senate Bill No. 2404, chapter 669.

** NOTE: Section 58-17-02 was also amended by section 102 of Senate Bill No. 2065, chapter 606.

*** NOTE: Section 61-04.1-24 was also amended by section 2 of Senate Bill No. 2389, chapter 679.

3. The following paragraph: We, the undersigned qualified electors of the (name of county), state of North Dakota, are notified hereby that the creation of the (name of county) weather modification authority and the appointment of its commissioners by the (name of county) board of county commissioners will grant unto the authority by law the power to certify to the board of county commissioners a mill levy tax not to exceed two mills upon the net taxable valuation of property in said county for a weather modification fund, which tax may be levied in excess of the mill levy limit fixed by law for taxes for general county purposes and that such fund shall be used for weather modification activities in conjunction with the state of North Dakota. We, the undersigned understand that the authority requested in this petition expires ten years after the creation of the weather modification authority, except that the board of county commissioners may by resolution create a weather modification authority and all its powers, including the power to certify a tax levy as provided by North Dakota Century Code section 61-04.1-26, for five-year periods in accordance with North Dakota Century Code section 61-04.1-27.

* SECTION 85. AMENDMENT. Section 61-04.1-26 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04.1-26. Tax may be certified by weather modification authority. The weather modification authority may certify annually to the board of county commissioners a tax of not to exceed two mills upon the net taxable valuation of the property in the county for a "weather modification" fund. The tax shall be levied by the board of county commissioners and may be levied in excess of the mill levy limit fixed by law for taxes for general county purposes. The weather modification fund shall be used only for weather modification activities in conjunction with the state of North Dakota. The tax certified by the weather modification authority is limited to the period of existence of the weather modification authority as provided for in this chapter.

** SECTION 86. AMENDMENT. Section 61-04.1-32 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04.1-32. County budget may be waived for first appropriation - Conditions. The provisions of chapter 11-23 shall not apply to appropriations made under the provisions of this chapter. However, immediately after a weather modification authority has been created by resolution of the board of county commissioners, and after certification of a mill levy by the weather modification authority, and only for the initial or first appropriation for the authority, the county commissioners may, at their discretion, appropriate from moneys, not otherwise appropriated, in the general fund, such moneys as are necessary for carrying out the provisions of this chapter.

* NOTE: Section 61-04.1-26 was also amended by section 3 of Senate Bill No. 2389, chapter 679.

** NOTE: Section 61-04.1-32 was also amended by section 4 of Senate Bill No. 2389, chapter 679.

However, the appropriation shall not exceed an amount equal to what funds would be raised by a two-mill levy upon the ~~net~~ taxable valuation of the property in the county.

* SECTION 87. AMENDMENT. Section 61-09-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-09-20. How rate of special assessment determined - Entering upon assessment roll - Payment of assessment money when collected. The rate of assessment determined by a special election as provided in section 61-09-18 shall be ascertained by adding to the amount estimated to be needed fifteen percent thereof for anticipated delinquencies, and then dividing the sum to be raised by the amount of the ~~assessed~~ taxable value of the property in the district as it appears on the assessment roll for the current year. The assessment so levied and computed shall be entered upon the assessment roll and upon the tax list by the county auditor and collected at the same time and in the same manner as other assessments.

** SECTION 88. AMENDMENT. Section 61-21-46 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-46. Maximum levy - Accumulation of fund. The levy in any year for cleaning out and repairing a drain shall not exceed one dollar per acre [.40 hectare] on any agricultural lands in the drainage district. Agricultural lands which carried the highest assessment when the drain was originally established, or received the most benefits under a reassessment of benefits, may be assessed the maximum amount of one dollar per acre [.40 hectare]. The assessment of other agricultural lands in the district shall be based upon the proportion that the assessment of benefits at the time of construction or at the time of any reassessment of benefits bears to the assessment of the benefits of the agricultural land assessed the full one dollar per acre [.40 hectare]. Nonagricultural property shall be assessed an amount not to exceed one dollar for each ~~one thousand~~ five hundred dollars of ~~assessed~~ taxable valuation of such nonagricultural property. In case the maximum levy or assessment on agricultural and nonagricultural property for any year will not produce an amount sufficient to cover the cost of cleaning out and repairing such drain, the board may accumulate a fund in an amount not exceeding the sum produced by such maximum permissible levy for two years. If the cost of, or obligation for, the cleaning and repair of any drain shall exceed the total amount which can be levied by the board in any two-year period, the board shall obtain an affirmative vote of the majority of the landowners as determined by section 61-21-16 prior to obligating the district for such costs.

*** SECTION 89. AMENDMENT. Subsection 1 of section 63-01.1-06 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE: Section 61-09-20 was also amended by section 37 of Senate Bill No. 2064, chapter 680.
- ** NOTE: Section 61-21-46 was also amended by section 1 of Senate Bill No. 2257, chapter 683.
- *** NOTE: Section 63-01.1-06 was also amended by section 3 of House Bill No. 1223, chapter 693.

1. The board of county commissioners may pay expenses from the general fund in any one year in furtherance of this chapter, including weed control along public highways in the county. The county weed board may certify annually to the board of county commissioners a tax, not to exceed two mills on the net assessed taxable valuation of all taxable property in the county, to carry out the provisions of this chapter. However, the tax shall not be levied on property within the corporate limits of a city which establishes a program under section 63-01.1-10.1. The tax shall be levied by the board of county commissioners. All taxes levied and collected shall be remitted to the county weed board for a separate fund to be known as the weed control fund, which shall be used only to carry out the provisions of this chapter. The levy shall be made to cover the salary and expenses of the county weed board, county weed control officer, the expense of weed control along public highways in the county, and other expenses incurred in the operation of an effective weed control program in the county. The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.

SECTION 90. AMENDMENT. Section 63-01.1-06.3 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-01.1-06.3. Leafy spurge mill levy. The board of county commissioners in each county and the governing body of a city which establishes a program under section 63-01.1-10.1 may levy a tax, not to exceed one mill on the net assessed taxable valuation of all taxable property within its jurisdiction, to fund the contributions to the leafy spurge control program. However, the board of county commissioners may not levy the tax on property within the corporate limits of a city which establishes a program under section 63-01.1-10.1. The tax may be levied in excess of the mill levy limit prescribed by law for general purposes. At the request of the county weed board or on the initiative of the board of county commissioners, or on the initiative of the governing body of a city which establishes a program under section 63-01.1-10.1, the tax levy authorized by this section shall not be made when no longer needed for the purposes of the leafy spurge control program. Funds necessary to carry out the provisions of the leafy spurge control program in excess of the revenue derived from the one mill levy authorized by this section shall be funded by the state under subsection 3 of section 63-01.1-06.2.

SECTION 91. AMENDMENT. Subsection 2 of section 63-01.1-10.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The governing body of any city with a population of three thousand or more may levy a tax, not to exceed two mills on the net assessed taxable valuation of property within the corporate limits of the city, to establish and administer the program.

Approved March 15, 1983

CHAPTER 594

HOUSE BILL NO. 1296
(Representative Hughes)
(Senator Lodoen)

AGRICULTURAL PROPERTY DEFINITION

AN ACT to amend and reenact subsection 11 of section 57-02-01 of the North Dakota Century Code, relating to the definition of agricultural property for assessment purposes; and to provide an effective date.

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

SECTION 1. AMENDMENT. Subsection 11 of section 57-02-01 of the 1981 Special Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11. "Agricultural property" means platted or unplatted lands used for raising agricultural crops or grazing farm animals, except lands platted and assessed as agricultural property prior to March 30, 1981, shall continue to be assessed as agricultural property until put to a use other than raising agricultural crops or grazing farm animals. Property platted on or after March 30, 1981, is not agricultural property when any three of the following conditions exist:
- a. The land is platted by the owner.
 - b. Public improvements including sewer, water, or streets are in place.
 - c. Topsoil is removed or topography is disturbed to the extent that the property cannot be used to raise crops or graze farm animals.
 - d. Property is zoned other than agricultural.
 - e. Property has assumed an urban atmosphere because of adjacent residential or commercial development on three or more sides.
 - f. The parcel is less than ten acres and not contiguous to agricultural property.
 - g. The property sells for more than four times the county average true and full agricultural value.

SECTION 2. EFFECTIVE DATE. The provisions of this Act are effective for taxable years beginning after December 31, 1982.

Approved April 14, 1983

CHAPTER 595

SENATE BILL NO. 2072
(Legislative Council)
(Interim Tax Statutes Revision Committee)

PERSONAL PROPERTY TAX REFERENCES

AN ACT to amend and reenact section 57-02-03, and subsections 1, 2, 3, 6, 8, 9, 10, 11, and 16 of section 57-02-08 of the North Dakota Century Code, relating to taxation and deleting obsolete references to the personal property tax; and to repeal sections 10-12-03, 57-02-06, 57-02-07, and subsections 12, 18, 19, 21, and 24 of section 57-02-08 of the North Dakota Century Code, relating to the exemption of property of the rural rehabilitation corporation, definitions of merchants and manufacturers, and obsolete references to specific items of personal property exempt from taxation.

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

SECTION 1. AMENDMENT. Section 57-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-03. Property subject to taxation. ~~Except as otherwise expressly provided, the following~~ All property in this state is subject to taxation- unless expressly exempted by law.

- 1- All real and personal property in this state,
- 2- The personal property of persons or of corporations residing or doing business therein,
- 3- The property of corporations now existing or hereafter created, and
- 4- The property of all banks now existing or hereafter created-

Such property, or the value thereof, shall be entered in the list of taxable property for that purpose in the manner prescribed in this chapter-

SECTION 2. AMENDMENT. Subsections 1, 2, 3, 6, 8, 9, 10, 11, and 16 of section 57-02-08 of the 1981 Supplement to the North

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

1. All property, ~~real or personal~~, owned exclusively by the United States except any such property which the state and its political subdivisions are authorized by the laws of the United States to tax.
2. All property, ~~real or personal~~, owned by this state, but no lands contracted to be sold by the state shall be exempt.
3. All property, ~~real or personal~~, belonging to any county, city, park district, township, school district, or to any other municipal corporation political subdivision, except that land purchased by counties at tax sales shall be taxed until the period of redemption from such tax sale has been terminated.
6. All ~~schoolhouses~~ property belonging to schools, academies, colleges, or other institutions of learning, with the books and furniture therein, and the grants attached to such buildings necessary for their proper occupancy, use, and enjoyment and not otherwise used with a view to profit, and all dormitories and boarding halls, including the land upon which they are situated, owned and managed by any religious corporation for educational or charitable purposes for the use of students in attendance upon any educational institution, if such dormitories and boarding halls ~~shall~~ are not be managed or used for the purpose of making a profit over and above the cost of maintenance and operation.
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, and this includes any dormitory, dwelling, or residential-type structure, together with necessary land on which such structure is located, owned by a religious or charitable organization recognized as tax exempt under section 501(c)(3) of the United States Internal Revenue Code which is occupied by members of said organization who are subject to a religious vow of poverty and devote and donate substantially all of their time to the religious or charitable activities of the owner.
9. All real property, not exceeding two acres [.81 hectares] in extent, owned by any religious corporation or

organization, upon which there is a building used for the religious services of such organization, or upon which there is a dwelling with usual outbuildings, intended and ordinarily used for the residence of the bishop, priest, rector, or other minister in charge of such services, shall be deemed to be property used exclusively for religious services, and exempt from taxation, whether such real property consists of one tract or more. All taxes assessed or levied on any such property, while the same was so used for religious purposes, are void and of no effect, and must be canceled. All personal property of any religious corporation or organization used for religious purposes is exempt from taxation.

10. ~~Real and personal property~~ Property of an agricultural fair association duly incorporated for the exclusive purpose of holding agricultural fairs, and not conducted for the profit of any of its members or stockholders; provided, that all property described in this subsection shall be subject to taxation for the cost of fire protection services furnished by any municipal corporation in which said property is located.
11. ~~Real and personal property~~ Property owned by lodges, chapters, commanderies, consistories, farmers' clubs, commercial clubs, and like organizations, and associations, grand or subordinate, not organized for profit, and used by them for places of meeting and for conducting their business and ceremonies, and all ~~real and personal~~ property owned by any fraternity, sorority, or organization of college students if such property ~~shall be~~ is used exclusively for such purposes; provided, further, that any portion of such premises not exclusively used for places of meeting and conducting the business and ceremonies of such organization shall be subject to taxation.

Provided, further, that ~~where if~~ any such organization as contemplated by this subsection ~~shall be~~ is licensed for the sale of alcoholic beverages as defined by the statutes of the state of North Dakota, such portion of such premises where such alcoholic beverages are consumed or sold shall be deemed not to be so used exclusively for conduct of its business and meeting if such beverages are sold at a profit.

Provided, further, that if food other than that served at lodge functions and banquets and food sold or consumed in any fraternity or sorority house, is sold at a profit on the premises, that portion of the premises where such food is sold at a profit shall be deemed not to be used exclusively for places of meeting or conducting the business and ceremonies of such organization; provided, that all property described in this subsection shall be

subject to taxation for the cost of fire protection services furnished by any municipal corporation in which said property is located.

16. ~~Real and personal property~~ Property now owned, or hereafter acquired, by a corporation organized, or hereafter created, under the laws of this state for the purpose of promoting athletic and educational needs and uses at any state educational institution in this state, and not organized for profit.

SECTION 3. REPEAL. Sections 10-12-03, 57-02-06, and 57-02-07 of the North Dakota Century Code, and subsections 12, 18, 19, 21, and 24 of section 57-02-08 of the 1981 Supplement to the North Dakota Century Code are hereby repealed.

Approved January 28, 1983

CHAPTER 596

SENATE BILL NO. 2313
(Barth, Grotberg)

FARM RESIDENCE EXEMPTION

AN ACT to amend and reenact subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the definition of a farmer and the exemption of a farm residence from taxation.

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 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15. a. 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.
- b. 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 residence 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 purposes of this subdivision:
 - (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] 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.

- (2) "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.
- (3) "Net income from farming activities" described in paragraph 2 means taxable income from those activities as computed for income tax purposes pursuant to chapter 57-38 adjusted to include the following:
 - (a) The difference between gross sales price less expenses of sale and the amount reported for sales of agricultural products for which the farmer reported a capital gain.
 - (b) Interest expenses from farming activities which have been deducted in computing taxable income.
- (4) For purposes of applying the income requirements of this subdivision, if a husband and wife reside together in a residence claimed as exempt under this subdivision because both or one of them is a farmer, not less than fifty percent of their combined net income from all sources must be net income from farming activities as defined in paragraph 3 in order for the residence to qualify for the exemption.
- (5) When exemption is claimed under this subdivision for a residence, the assessor may require that the occupant of the residence who it is claimed is a farmer provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that fifty percent or more of the net income of that occupant was, or was not, net income from farming activities; provided, that if that occupant is married and they both occupy the residence, it shall be stated in the written statement that

their net income from farming activities was, or was not, fifty percent or more of their combined net income from all sources.

- (6) In addition to any of the provisions of this subsection or any other provision of law, a residence situated on agricultural land is not exempt for the year if it is occupied by an individual engaged in farming who had nonfarm income, including that of a spouse if married, of more than twenty thousand dollars during each of the three preceding calendar years. The provisions of this paragraph do not apply to an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which he lives and for which the exemption is claimed.

Approved April 19, 1983

CHAPTER 597

SENATE BILL NO. 2502
(Kilander, Goodman)
(Approved by the Committee on Delayed Bills)

FAMILY RESIDENTIAL PROPERTY TAX EXEMPTION

AN ACT to amend and reenact sections 1 and 2 of Senate Bill No. 2295, as approved by the forty-eighth legislative assembly, relating to exemption from property taxes for certain new single family residential property; and to provide an effective date and expiration date.

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

SECTION 1. AMENDMENT. Section 1 of Senate Bill No. 2295, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

SECTION 1. A new subsection to section 57-02-08 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

All new single family residential property, exclusive of the land on which it is situated, shall be exempt from taxation for the two taxable years subsequent to the taxable year in which construction is begun if all of the following conditions are met:

- a. The governing body of the city, for property within city limits, or the governing body of the county, for property outside city limits, has approved the exemption of the property by resolution.
- b. Special assessments and taxes on the property upon which the residence is situated are not delinquent.
- c. The first owner after the builder resides on the property, or the builder still owns the property; provided that person resides in the property.

For purposes of this subsection "single family residential property" does not include condominium or townhouse property.

SECTION 2. AMENDMENT. Section 2 of Senate Bill No. 2295, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

SECTION 2. A new subsection to section 57-02-08 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

All new condominium and townhouse residential property, exclusive of the land on which it is situated, shall be exempt from taxation for the two taxable years subsequent to the taxable year in which construction is begun if all of the following conditions are met:

- a. The governing body of the city, for property within city limits, or the governing body of the county, for property outside city limits has approved the exemption of the property by resolution.
- b. Special assessments and taxes on the property upon which the condominium or townhouse is situated are not delinquent.
- c. The first owner, after the builder, who resides in the condominium or townhouse unit still owns the property.

SECTION 3. EFFECTIVE DATE AND EXPIRATION DATE. This Act is effective for taxable years beginning after December 31, 1982, for property upon which construction is begun after March 31, 1983, and completed before January 1, 1985, and is ineffective after December 31, 1987.

Approved April 19, 1983

CHAPTER 598

HOUSE BILL NO. 1373
(Sinner)

AD VALOREM TAXATION

AN ACT to amend and reenact section 15-08-18.1, subsection 20 of section 57-02-08, sections 57-02-11, 57-02-31, 57-09-04, 57-11-04, 57-11-05, 57-12-01.1, 57-12-05, 57-12-06, 57-12-08, 57-13-04, 57-13-08, 57-14-01, 57-14-06, 57-23-03, 57-23-04, 57-23-05, subsection 2 of section 57-23-06, sections 57-23-07, 57-28-19, 57-32-05, subsection 1 of section 57-55-10 and subsection 2 of section 57-61-01 of the North Dakota Century Code, relating to the ad valorem taxation of property, the abatement and refund of ad valorem taxes, omitting references to personal property taxation, coal severance tax wholesale price index reporting dates; and to repeal sections 40-19-02, 57-02-12, 57-02-35, 57-02-36, 57-02-37, and 61-20-05 of the North Dakota Century Code, relating to the ad valorem taxation of personal property.

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

* SECTION 1. AMENDMENT. Section 15-08-18.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-18.1. Taxation of public lands sold on contract - Cancellation. Where real property owned by the state of North Dakota as trustee of permanent school funds for the use and benefit thereof is sold upon contract providing for a future conveyance, the department or office making such contract on the part of the vendor shall immediately notify the county auditor of the county wherein the real property is situated, of the making of the contract, the description of the real property therein described, and the name of the vendee. The real property shall be put upon the tax rolls of the county and assessed and the taxes shall be levied thereon, based upon its assessed value on the first day of ~~April~~ February next succeeding the date of the contract. Failure to notify the county auditor according to the provisions of this section shall make the commissioner of university and school lands personally liable in a civil action to be brought by the state's attorney of the county wherein the land lies against the commissioner for the amount of the taxes that would have been

* NOTE: Section 15-08-18.1 was also amended by section 8 of Senate Bill No. 2071, chapter 593.

levied had the notice been given as herein provided. In the event that the contract is canceled by the vendor, the taxes shall be immediately canceled and stricken from the tax rolls by the county auditor upon notice of such cancellation being given to him by the vendor.

* SECTION 2. AMENDMENT. Subsection 20 of section 57-02-08 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20. Fixtures, buildings, and improvements up to the amount of valuation specified, when owned and occupied as a homestead, as hereinafter defined, by any of the following persons:
- a. A paraplegic disabled veteran of the United States armed forces or any veteran who has been awarded specially adapted housing by the veterans' administration, or his the unremarried widow surviving spouse if such veteran is deceased; provided, that this exemption shall not exceed twenty ten thousand dollars of assessed taxable valuation.
 - b. A disabled veteran of the United States armed forces who was discharged under honorable conditions or who has been retired from the armed forces of the United States with an armed forces service-connected disability of fifty percent or greater, or his the unremarried widow surviving spouse if such veteran is deceased, if the income of such veteran and his wife the spouse, or if such veteran is deceased the income of his the unremarried widow surviving spouse, in the calendar year prior to the year for which the exemption is claimed did not exceed the maximum amount of income provided in section 57-02-08.1 for receiving a homestead credit under that section exclusive of any compensation or pension for service-connected disability from the United States government; provided, that this exemption shall not exceed ten five thousand dollars of assessed taxable valuation.
 - c. Any permanently and totally disabled person who is permanently confined to use of a wheelchair, or, if deceased, the unremarried surviving spouse of such a person, shall be entitled to a reduction of ten five thousand dollars of assessed taxable valuation. If the spouse of such a permanently and totally disabled person owns the homestead or if it is jointly owned by them, the same reduction in assessed valuation shall apply as long as both reside thereon. The provisions of this subdivision shall not reduce the liability for special assessments levied upon the homestead. The phrase "permanently confined to use of a wheelchair" means that the person cannot walk with the assistance

* NOTE: Section 57-02-08(20) was also amended by section 35 of Senate Bill No. 2071, chapter 593.

of crutches or any other device and will never be able to do so and that a physician selected by the local governing board has so certified.

Any person claiming an exemption under this subsection for the first time shall file with the county auditor an affidavit showing the facts herein required and a description of the property and, in addition, a disabled veteran claiming exemption under subdivision b shall also file with his the affidavit a certificate from the United States veterans' administration, or its successors, certifying to the amount of his the disability; such affidavit and certificate shall be open for public inspection. Any such person shall thereafter furnish to the assessor or other assessment officials when requested to do so any information which he believes is believed will support his the claim for exemption for any subsequent year.

For purposes of this subsection "homestead" shall have the meaning provided in section 47-18-01 except that it shall also apply to any person who otherwise qualifies under the provisions of this subsection whether or not such person is the head of a family. The board of county commissioners is hereby authorized to cancel the unpaid taxes for any year in which such veteran shall have held title to such exempt property.

SECTION 3. AMENDMENT. Section 57-02-11 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-11. Listing of property - Assessment thereof. Property shall be listed and assessed as follows:

1. All real property subject to taxation shall be listed and assessed every year with reference to its value, on February first of 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 preceeding February first. Each owner shall keep in his place of business a copy of all inventories taken during the preceeding 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.
- 3- 2. 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 the assessor shall investigate the matter and deduct from the valuation of the property of the owner of such destroyed property an amount which in his the assessor's 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.

SECTION 4. AMENDMENT. Section 57-02-31 of the 1981 Supplement to 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 county expense for each assessment district or township in the county. In every odd-numbered Every year, he the county auditor shall enter in the real property assessment book a complete list of all lands or lots subject to taxation. The list shall show the name of the owner, if known, the number of acres [hectares], and the lots and parts of lots or blocks included in each description. On or before the second Wednesday in February of each year, following notice by mail from the county auditor, all the assessors in the county shall meet in the county auditor's office for a conference on their duties as assessors, and the county auditor shall then deliver to each assessor the assessment books and blanks for his each assessor's assessment district. Each assessor shall be allowed a sum not to exceed twenty dollars a day, at the discretion of the board of county commissioners, for each day's attendance at the conference and mileage in the amounts provided in section 11-10-15.

SECTION 5. AMENDMENT. Section 57-09-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-09-04. Duties of board. The township board of equalization shall ascertain whether or not all taxable property in its township has been properly placed upon the assessment list and duly valued by the assessor. In case any real property, real or personal, shall have been omitted by inadvertence or otherwise, the board shall place the same upon the list with the true value thereof. The board shall proceed to correct the assessment so that each tract or lot of real property, and each article, parcel, or class of personal property, shall be entered on the assessment list at the true value thereof. The assessment of the property of any person shall not be raised until such person shall have been notified of the intent of the board to raise the same. All complaints and grievances of residents of the township shall be heard and decided by the board and it may make corrections as shall appear to be just. Complaints by nonresidents with reference to the assessment of any real property, real or personal, and complaints by others with reference to any assessment made after the meeting of the township board of

equalization, shall be heard and determined by the county board of equalization.

SECTION 6. AMENDMENT. Section 57-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-11-04. Application for correction of assessment. During the session of the board, any person, ~~his or the attorney,~~ or agent, of any person feeling aggrieved by anything in the assessment roll, may apply to the board for the correction of alleged errors in the listing or valuation of ~~his real or personal~~ property, and the board may correct the errors as it may deem just.

SECTION 7. AMENDMENT. Section 57-11-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-11-05. Adding property to assessment list. The board of equalization shall place upon and add to the assessment roll any real ~~or personal~~ property subject to taxation which has been omitted by the owner or the assessor, and shall enter the property at a valuation which will bear an equal and just proportion of the taxation. ~~If the board has reason to believe that any person has failed to disclose to the assessor all personal property required by law to be listed, or if any person refuses to swear to the list made, the board shall give notice to such person of its intention to add the property omitted to the assessment roll. Such notice shall be given in the manner prescribed for the giving of notice to raise the valuation, and the board may examine the owner of the property under oath regarding his property, or, if he refuses to appear, it may fix the valuation at a sum which it may deem just.~~

SECTION 8. AMENDMENT. Section 57-12-01.1 of the 1981 Supplement to 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 57-12-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-12-05. Rules to be followed in equalization of individual assessments. The county board of equalization, when equalizing individual assessments, shall observe the following rules:

1. The valuation of each tract or lot of real property which is returned below its true and full value shall be raised to the sum believed by such board to be the true and full value thereof.
2. The valuation of each tract or lot of real property which, in the opinion of the board, is returned above its true and full value shall be reduced to such sum as is believed to be the true and full value thereof.
- 3- The valuation of each class or article of personal property which in the opinion of this board is returned below its true and full value shall be raised to such sum as is believed by the board to be its true and full value. Whenever it is believed that the aggregate value of the taxable personal property of each individual as shown by the assessment is less than the true value of such property, the assessment shall be raised to such amount as is believed by the board to be the true and full aggregate value of such property, but the value of any such property of any person shall not be raised until notice shall be given to the owner or his agent.
- 4- The valuation of each class of personal property which is returned above its true and full value shall be reduced to a sum which is believed to be the true and full value thereof, and, upon complaint of any party aggrieved, such board shall reduce the aggregate valuation of the personal property of such person, if in its opinion such person's assessment is excessive, to such a sum as it believes is the true and full value of his personal property.

SECTION 10. AMENDMENT. Section 57-12-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-12-06. Rules to be followed in equalizing between assessment districts and in equalizing between property owners.

1. The rules prescribed in section 57-12-05 shall apply when the board of county commissioners is equalizing assessments between the several assessment and taxing districts in the county provided that in such case, except as otherwise provided in subsection 2 of this section, the

board may raise or lower the valuation of classes of property only so as to equalize the assessments as between districts.

2. Notwithstanding any other provision of this section:
 - a. The county board of equalization after notice to the local board of equalization may reduce the assessment on any separate piece or parcel of real estate ~~or on the assessment to any person of any particular item or classification of personal property~~ even though such property was assessed in a city or township having a local board of equalization; provided that the county board of equalization shall not have authority to reduce any such assessment unless the owner of the property or the person to whom it was assessed shall first appeal to the county board of equalization, either by appearing personally or by a representative before the board or by mail or other communication to the board, in which his reasons for asking for the reduction are made known to the board; the proceedings of the board shall show the manner in which the appeal was made known to the board and the reasons for granting any reduction in any such assessment.
 - b. The county board of equalization after notice to the local board of equalization may increase the assessment on any separate piece or parcel of real property ~~or on the assessment to any person of any particular item or classification of personal property~~ even though such property was assessed in a city or township having a local board of equalization; provided that the county board of equalization shall not have authority to increase any such assessment unless it shall first give notice by mail to the owner of the property ~~or the person in whose name it was assessed~~ that such person may appear before the board on the date designated in the notice, which date shall be at least five days after the mailing of the notice; the county auditor as clerk of the board shall send such notice to the person or persons concerned.
 - c. In any case where the county board of equalization during the course of its equalization sessions determines that any property of any person has been listed and assessed in the wrong classification, it shall direct the county auditor to correct the listing so as to include such assessment in the correct classification.
3. The owner of any separate piece or parcel of real estate that has been assessed ~~and any person to whom any particular item or classification of personal property has been assessed~~ may appeal the assessment thereon to the

state board of equalization as provided in subdivision a of subsection 4 of section 57-13-04; provided, however, that such owner or person has first appealed the assessment to the local equalization board of the taxing district in which the property was assessed and to the county board of equalization of the county in which the property was assessed.

SECTION 11. AMENDMENT. Section 57-12-08 of the 1981 Supplement to 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 the county auditor shall make duplicate abstracts of the real and personal property lists, one copy of which he shall file be filed in his the office of the county auditor and one copy of which he shall forward be forwarded to the state tax commissioner on or before the last day of June following each county equalization.

SECTION 12. AMENDMENT. Section 57-13-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-13-04. General duties and powers of board. The state board of equalization shall equalize the valuation and assessment of property throughout the state, and shall have power to equalize the assessment of property in this state between assessment districts of the same county, and between the different counties of the state. It shall:

1. Equalize the assessment of real property by adding to the aggregate value thereof in any assessment district in a county and in every county in the state in which the board may believe the valuation too low, such rate percent as will raise the same to its proper value as provided by law, and by deducting from the aggregate assessed value thereof, in any assessment district in a county and in every county in the state in which the board may believe the value too high, such percent as will reduce the same to its proper value as provided by law. City lots shall be equalized in the manner provided for equalizing other real property;
- 2- Equalize the assessment of personal property by adding to the aggregate assessed value of any class of personal property in any assessment district in a county and in every county in the state in which it believes such valuation to be too low, such rate percent as will raise the same to its proper relative value, and by deducting from the aggregate assessed value of any class of personal property in any assessment district in a county and in

every county in the state in which the board may believe the valuation to be too high, such percent as will reduce the same to its proper relative value;

- 3- 2. In making such equalization, add to or deduct from the aggregate assessed valuation of lands, and city lots, or any class of personal property throughout the state, such percent as may be deemed by the board to be equitable and just, but in all cases of addition to or deduction from the assessed valuation of any class of property in the several assessment districts in each county and in the several counties of the state, or throughout the state, the rate percent of addition or deduction shall be even and not fractional; and
- 4- 3. In equalizing individual assessments:
- a. The board may, if it believes an assessment to be too high, reduce the assessment on any separate piece or parcel of real estate or the assessment to any person of any particular item or classification of personal property if the taxpayer has appealed such assessment to the board either by appearing personally or by a representative before the board or by mail or other communication to the board in which his reasons for asking for the reduction are made known to the board; provided, however, that the board shall not have authority to reduce an assessment until the taxpayer has established to the satisfaction of the board that he had first appealed the assessment to the local equalization board of the taxing district in which the property was assessed and to the county board of equalization of the county in which the property was assessed;
 - b. The board may, if it believes an assessment to be too low, increase the assessment on any separate piece or parcel of real estate or the assessment to any person of any particular item or classification of personal property; the secretary of the board shall, by mail sent send to the last known address of the owner or person to whom the property was assessed, notify such person of the amount of increase made by the board in such assessment;
 - c. The percentage of reduction or increase made by the board under this subsection in any assessment shall be even and not fractional.

SECTION 13. AMENDMENT. Section 57-13-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-13-08. Duty of county auditor after equalization by state board. Upon receipt of the report of the proceedings of the state board of

equalization, the county auditor shall add to or deduct from each tract or lot of real property in his county the required percent of the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding in each case any fractional sum of fifty cents or more, and deducting in each case any fractional sum of less than fifty cents, so that the value of any separate tract or lot shall contain no fraction of a dollar; and also shall add to or deduct from each class of personal property the required percentages of the valuation thereof as it stands after the same has been equalized by the county board of equalization; adding or deducting as aforesaid any fractional sum, so that the value of any separate class of personal property shall contain no fraction of a dollar.

SECTION 14. AMENDMENT. Section 57-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-14-01. Duty of county auditor upon discovery of clerical error, omission or false statement in assessment. Whenever the county auditor shall discover that:

1. Taxable real ~~or personal~~ property has been omitted in whole or in part in the assessment of any year or years; or
2. Any building or structure has been listed and assessed against a lot or tract of land other than the true site or actual location of such building; or
- 3- Any person has given the assessor a false statement of his personal property; or
- 4- 3. The assessor has not returned the full amount of all property required to be listed in his the district, or has omitted property subject to taxation; or
- 5- 4. The assessor has made a clerical error in valuing real ~~or personal~~ property, provided the assessor furnishes the county auditor with a written statement describing the nature of the error, which statement the county auditor shall keep on file,

he the assessor shall proceed to correct the assessment books and tax lists in accordance with the facts in the case and shall correct such error or omission in assessment, and shall add such omitted property and assess it at its true and full value, and if a building or other structure, assessed as real estate in the assessment thereof, is described as though situated upon a lot or tract of land other than that upon which it in fact is situated, the county auditor shall correct the description and add the assessment thereof to the assessment of the lot upon which it actually is located, if the rights of a purchaser for value without actual or constructive notice of such error or omission shall not be prejudiced by such correction, addition, or assessment.

SECTION 15. AMENDMENT. Section 57-14-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-14-06. Auditor to keep roll of omitted property. The county auditor of each county shall keep a book to be called "Assessment Roll of Property which has Escaped Taxation", in which ~~he~~ the county auditor shall enter from time to time all real property, ~~real or personal~~, which shall have been omitted in the assessment of any previous year or years, or the assessment of which shall have been set aside by the judgment of any court, such property thereby having escaped taxation. If omitted property is assessed for a prior year or years, the county auditor shall enter the assessment of such property in the assessment roll of property which has escaped taxation at the rate and in the amount for which such omitted property should have been assessed in said year or years. Omitted property shall be assessed for each year during which it escaped assessment and taxation.

SECTION 16. AMENDMENT. Section 57-23-03 of the 1981 Supplement to 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 17. AMENDMENT. Section 57-23-04 of the 1981 Supplement to 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, mobile home, 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.
8. When the assessment on the complainant's property is invalid, inequitable, or unjust.

SECTION 18. AMENDMENT. Section 57-23-05 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-05. Application for abatement or refund - Who may make. An application for an abatement or refund shall be in writing and shall be filed in duplicate with the county auditor. It shall state the grounds relied upon for such abatement or refund, and give the post-office address of the applicant, and shall be verified. The county auditor shall note the date of filing, shall file the same, and shall present a copy to the city auditor or the township clerk if the applicant's assessed property is within a city or an organized township. He The county auditor shall present the application to the board of county commissioners at its next regular meeting. The county auditor shall give the applicant notice by mail of the time and place of hearing on any abatement or refund not less than ten days prior to such hearing.

Any person having any estate, right, title, or interest in or lien upon any real ~~or personal~~ property who claims that the assessment made or the tax levied against the same is excessive or

illegal, in whole or in part, shall be entitled to make an application for abatement, refund, or compromise, as the case may be, and have such application granted if the facts upon which the application is based bring it within the provisions of this chapter for abatement, refund, or compromise. In addition, if an abatement is based upon any of the grounds specified in section 57-23-04 and if the application for abatement will not result in a refund of tax or a compromise of a tax, the abatement application may be signed and submitted by either the county auditor or the assessor who made the assessment resulting in the tax specified in the abatement application.

SECTION 19. AMENDMENT. Subsection 2 of section 57-23-06 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. At the next regular meeting of the board of county commissioners following the filing of an application for abatement, the applicant may appear, in person or by his a representative or attorney, and may present such evidence as may bear on the application. He The applicant shall furnish any additional information or evidence requested by the board of county commissioners. ~~Any abatement or refund of any special assessment must be approved by the governing body of the municipality in which the special assessment was made and such abatement or refund shall be effective when approved by the board of county commissioners.~~ The recommendations of the governing body of the municipality in which such assessed property is located shall be endorsed upon or attached to every application for an abatement or refund, and the board of county commissioners shall give consideration to such recommendations. The board of county commissioners, by a majority vote, either shall approve or reject the application, in whole or in part. If rejected, a statement of the reasons for such rejection, signed by the chairman of the board, shall be attached to the application, and a copy thereof shall be mailed by the county auditor to the applicant at the post-office address specified in the application.

SECTION 20. AMENDMENT. Section 57-23-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-07. County commissioners may compromise tax. Whenever taxes on any real estate remain unpaid and such property has not been sold to any purchaser other than the county, ~~or when any personal property taxes remain unpaid,~~ the board of county commissioners, subject to the approval of the state tax commissioner, by reason of depreciation in the value of such property or for other valid cause, may compromise with the owner of such property by abating a portion of such delinquent taxes, together with any penalty and interest on such portion, on payment of the remainder.

SECTION 21. AMENDMENT. Section 57-28-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-28-19. Rights of former owner to repurchase. The former owner, his the executor or administrator, or any member of his the immediate family, shall have the right to repurchase all real estate forfeited to the county under tax deed proceedings, so long as the tax title thereto remains in the county. However, in the event any city or town has theretofore made a special assessment for public improvements against any such tract, piece or parcel of land, which special assessment has become delinquent and remains unpaid, such city or town shall have a right to purchase for cash, at the appraised value, prior to that of the former owner. The county auditor of any county, immediately upon appraisal of such property, shall give notice thereof to the auditor of any such city or town and such city or town shall have thirty days within which to purchase said property. The purchase by a former owner may be for cash or upon contract for deed made by and between the board of county commissioners and the former owner, his the executor or administrator, or any member of his the immediate family. The consideration of such contract shall include:

1. The total amount required to be paid in the notice to effect a redemption;
2. The total amount of all subsequent taxes with interest, penalties, and costs.

If the fair market value of such property at the time of the repurchase thereof is less than the amount to be paid to effect a redemption, together with all subsequent taxes, interest, penalties, and costs, the board shall fix a fair and just sale price for such property, and shall require the former owner, his the executor or administrator, or any member of his the immediate family, to pay at least twenty-five percent of the total contract price in cash and the remainder shall be payable in not to exceed ten annual equal installments as the board of county commissioners may determine. Such installments shall bear interest at ~~four percent~~ a rate determined by the county commissioners but shall not exceed the prime rate per annum as established by the Bank of North Dakota for the month immediately preceding the month in which the contract was entered into until the contract is paid in full. Such contract shall further provide that if the vendee or his the successor in interest fails to pay one or more of the installments when due, with interest, the board of county commissioners may cancel such contract and thereupon all payments and improvements made by the vendee or his the successor in interest shall be forfeited to the county as liquidated damages for breach of contract unless otherwise expressly provided. Upon the full performance of such contract, the county shall execute and deliver a deed to the purchaser which shall be executed in the manner in which tax deeds are executed and shall have the legal effect prescribed by the terms of this chapter. In case of repurchase or contract for repurchase of such tax deed land before the first of ~~April~~ February, such land shall be assessed and

taxed for the current year, and the repurchaser shall be entitled to the rental and landlord's share of crops on such land for such year. In case of the repurchase or contract for repurchase of such tax deed land after ~~March~~ January thirty-first, the land shall not be assessed and taxed for the current year, and the county shall retain the rental and landlord's share of the crops thereon for that year. In all cases wherein the repurchase or contract for repurchase of tax deed land is made after the first of January, such repurchase or contract for repurchase, will be subject to an existing farm lease of the lands so repurchased or contracted to be repurchased, for the year in which such repurchase or contract for repurchase is made.

SECTION 22. AMENDMENT. Section 57-32-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-32-05. Collection of tax. If any tax required to be paid by any company under the provisions of this chapter shall not be paid on or before October first of the year following the year of delinquency, the state treasurer shall seize personal property belonging to such company found within this state, sufficient to pay the amount of such tax with penalty and interest. The state treasurer, immediately after seizing said property, shall proceed to advertise the same for sale by publishing a notice at least two times in a newspaper published in Burleigh County. Such notice shall describe the property seized, the amount of the tax and penalty for which the property has been seized, and the day and hour when and the place where said property will be sold. If the tax and penalty, with interest due thereon, shall not be paid before the time appointed for sale, which shall not be less than ten days after the first publication of such notice, the state treasurer shall proceed to sell such property, or so much thereof as may be necessary, to pay such tax, penalty, interest, and the costs of such seizure and sale, at public auction to the highest bidder.

If any tax required to be paid by any car line company under the provisions of this chapter shall not be paid on or before October first following delinquency, the state treasurer may collect the tax due by using the following alternative procedure.

The state treasurer shall give notice of the amount of the delinquent tax by registered mail to the chief accounting officer of any railroad company over whose line or lines in this state the cars of said delinquent have been transported, or are being transported, and which said railroad company has in its possession or under its control any credits belonging to the delinquent or owes any debts to the delinquent.

After receiving the notice the railroad company so notified shall neither transfer nor make other disposition of the credits, or debts until the state treasurer consents to a transfer or disposition or until sixty days elapse after receipt of the notice. All railroad companies so notified shall advise the state treasurer within ten days after receipt of the notice of all such credits or debts in their possession, under their control, or owing by them.

Whenever any railroad company advises the state treasurer that it has within its possession or under its control any credits belonging to the delinquent, or owes any debt to the delinquent, and the amount thereof, the state treasurer may thereupon issue a notice of distraint and have the same served upon any such railroad company. Service of said notice upon the registered agent of such railroad company within this state shall constitute valid service. Any railroad company so served shall pay over to the state treasurer the sum of any credits belonging to the delinquent, or any debts owing to the delinquent, whenever such credits, or debts are less than the delinquent tax and penalty, or shall pay over to the state treasurer the amount of the delinquent tax and penalty, whenever such credits or debts are greater, and shall deduct the sum so paid over from the credits or debts due the delinquent.

* SECTION 23. AMENDMENT. Subsection 1 of section 57-55-10 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A mobile home described in this subsection to the extent herein limited shall be is 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 the mobile home is not permanently attached to the land and classified as real property. For the purposes of this subdivision, "welfare recipient" means any person who is certified to the county director of tax equalization by the county social service board as receiving the major portion of income from any state or federal public assistance program.
 - c. If it is owned and used as his living quarters by a disabled veteran or his unremarried widow surviving spouse 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.

* NOTE: Section 57-55-10 was also amended by section 4 of House Bill No. 1370, chapter 666, and section 145 of House Bill No. 1058, chapter 82.

* SECTION 24. AMENDMENT. Subsection 2 of section 57-61-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. For every four point increase in the index of wholesale prices for all commodities prepared by the United States department of labor, bureau of labor statistics, the amount of the severance tax provided in subsection 1 shall be increased one cent per ton of two thousand pounds [907.18 kilograms]. For the purposes of this computation, a fractional point increase shall be disregarded if less than one-half point and treated as one full point if one-half point or more. The state tax commissioner shall determine such increases based upon increases in the wholesale price index from the level of such index as of June 1979 to the level of such index as of December 1979 and of ~~June~~ May and ~~December~~ November of each year thereafter, and any increases based upon the level of the index in June ~~May~~ shall be effective on and after the following July first and any increases based upon the level of the index in ~~December~~ November shall be effective on and after the following January first. At no time shall the amount of the severance tax be reduced. If the wholesale price index declines, the severance tax shall remain at the highest level determined prior to such decline, and shall remain at such level until further increases are warranted because of further increases in the wholesale price index beyond the point at which the last increase was determined.

Such severance tax shall be in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit such tax for each calendar quarter, within thirty days after the end of each quarter, to the state tax commissioner upon such reports and forms as the tax commissioner shall deem necessary. If the method of determining increases in the amount of the severance tax provided in subsection 2 is for any reason held to be invalid, such decision shall not affect the validity of the amount of the tax provided in subsection 1.

SECTION 25. REPEAL. Sections 40-19-02, 57-02-12, 57-02-35, 57-02-36, and 57-02-37 of the North Dakota Century Code, and section 61-20-05 of the 1981 Supplement to the North Dakota Century Code are hereby repealed.

Approved April 5, 1983

- * NOTE: Section 57-61-01 was also amended by section 11 of House Bill No. 1727, chapter 648.

CHAPTER 599

SENATE BILL NO. 2258
(Senator Matchie)
(Representative Swiontek)

PROPERTY TAX EXEMPTION FOR BLIND PERSONS

AN ACT to amend and reenact subsection 22 of section 57-02-08 of the North Dakota Century Code, relating to property tax exemption for blind persons.

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

* SECTION 1. AMENDMENT. Subsection 22 of section 57-02-08 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

22. All or any part of fixtures, building, and improvements upon any nonfarmland up to an assessed a taxable valuation of ~~ten~~ five thousand dollars, owned and occupied as a home by a blind person. ~~Homes Residential homes~~ owned by the spouse of a blind person, or jointly owned by a blind person and spouse, shall also be exempt within the limits of this subsection as long as the blind person resides in the home. For purposes of this subsection a blind person shall be defined as one who is totally blind, has visual acuity of not more than 20/200 in the better eye with correction, or whose vision is limited in field so that the widest diameter subtends an angle no greater than twenty degrees. The exemption provided by this subsection extends to the entire building classified as residential, and owned and occupied as a residence by a person who qualifies for the exemption as long as the building contains no more than two apartments or rental units which are leased.

Approved March 10, 1983

* NOTE: Section 57-02-08(22) was also amended by section 35 of Senate Bill No. 2071, chapter 593.

CHAPTER 600

HOUSE BILL NO. 1295

(D. Olsen, Strinden, Conmy, R. Meiers, Serenus Hoffner)

GROUP HOMES PROPERTY TAX EXEMPTION

AN ACT to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to a property tax exemption for group homes, including those for persons with developmental disabilities; and to provide an effective date.

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

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

All group homes owned by nonprofit corporations, not organized with a view to profit and recognized as tax exempt under section 501(c)(3) of the United States Internal Revenue Code, including those for persons with developmental disabilities as defined in section 25-01.2-01, and the real property upon which they are located during the period in which the group homes are under construction or in a remodeling phase and while they are used as group homes. For the purposes of this subsection, the term "group home" means a community-based residential home which provides room and board, personal care, habilitation services, or supervision in a family environment, and which, once established is licensed by the appropriate North Dakota licensing authority.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1982.

Approved April 5, 1983

CHAPTER 601

SENATE BILL NO. 2295
(Senators Goodman, Kilander, Lips)
(Representatives Unhjem, Strinder, G. Martin)

NEW SINGLE FAMILY RESIDENTIAL PROPERTY TAX EXEMPTION

AN ACT to create and enact two new subsections to section 57-02-08 of the North Dakota Century Code, providing exemptions from property taxes for new single family residential property and condominiums and townhouses which meet certain qualifications; and to provide an effective date and an expiration date.

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

SECTION 1. A new subsection to section 57-02-08 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

All new single family residential property, exclusive of the land on which it is situated, shall be exempt from taxation for the two taxable years subsequent to the taxable year in which construction is begun if all of the following conditions are met:

- a. The governing body of the city, for property within city limits, or the governing body of the county, for property outside city limits, has approved the exemption of the property by resolution.
- b. Special assessments on the property upon which the residence is situated are not delinquent.
- c. The first owner after the builder or the builder still owns the property, provided that person resides in the property.

For purposes of this subsection "single family residential property" does not include condominium or townhouse property.

SECTION 2. A new subsection to section 57-02-08 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

All new condominium and townhouse residential property, exclusive of the land on which it is situated, shall be exempt from taxation for the two taxable years subsequent to the taxable year in which construction is begun if all of the following conditions are met:

- a. The governing body of the city, for property within city limits, or the governing body of the county, for property outside city limits has approved the exemption of the property by resolution.
- b. Special assessments on the property upon which the condominium or townhouse is situated are not delinquent.
- c. The first owner, after the builder, who resides in the condominium or townhouse unit still owns the property.

SECTION 3. EFFECTIVE DATE AND EXPIRATION DATE. This Act is effective for taxable years beginning after December 31, 1982, for property upon which construction is begun after March 31, 1983, and completed before January 1, 1985, and is ineffective after December 31, 1987.

Approved March 24, 1983

CHAPTER 602

SENATE BILL NO. 2223
(Senator Wenstrom)
(Representative Serenus Hoffner)

SENIOR CITIZENS' PROPERTY TAX CREDIT

AN ACT to amend and reenact subsection 1 of 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; and to provide an effective date.

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

* SECTION 1. AMENDMENT. Subsection 1 of section 57-02-08.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any person sixty-five years of age or older in the year in which the tax was levied, or any person who is permanently and totally disabled as certified by a physician selected by the local governing body, with an income of ten thousand 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 on the assessed taxable 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. The exemption to which any person may be entitled shall be determined according to the following schedule:
 - a. If the person's income is not in excess of five thousand five hundred dollars, a reduction of one hundred percent of the assessed taxable valuation of the person's homestead up to a maximum reduction of ~~four~~ two thousand dollars of assessed taxable valuation.
 - b. If the person's income is in excess of five thousand five hundred dollars and not in excess of six thousand

* NOTE: Section 57-02-08.1(1) was also amended by section 36 of Senate Bill No. 2071, chapter 593.

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

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 the person is sixty-five years of age or older or is permanently and totally disabled and, that such income, including that of any dependent, as determined in this chapter does not exceed ten thousand dollars per annum and that the value of the person's assets, excluding the value of the person's "homestead" as defined in section 47-18-01, does not exceed fifty thousand dollars. The term "dependent" shall include the spouse, if any, of the person claiming the exemption. The assessor shall attach such statement to the assessment sheet and shall show the reduction on the assessment sheet.

SECTION 2. EFFECTIVE DATE. The provisions of this Act shall be effective for assessments of property made on or after January 1, 1984, and for periods of rent beginning on or after January 1, 1984.

Approved March 10, 1983

CHAPTER 603

SENATE BILL NO. 2298
(Senators Wenstrom, Lips)
(Representatives Mushik, Conmy, Serenus Hoffner)

HOMESTEAD CREDIT FOR SPECIAL ASSESSMENTS

AN ACT to amend and reenact section 57-02-08.3 of the North Dakota Century Code, relating to the homestead credit for special assessments and to the postponement of the satisfaction of lien on certain transfers; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 57-02-08.3 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-08.3. Homestead credit for special assessments - Certification - Lien.

1. Any person who has qualified for the property tax credit provided for in section 57-02-08.1 may elect to also qualify for an additional homestead credit against that person's homestead for the portion of any special assessment levied by a city under title 40 that becomes due for the same year. This credit shall be granted only at the election of the qualifying person. The person making the election shall do so by filing with the county auditor a claim for the special assessment credit on a form prescribed by the tax commissioner. The claim shall be filed with the county auditor on or before February first of the year in which the special assessment or installment thereof becomes payable.
2. a. Prior to By March 1, 1983, and prior to that same date first of each year thereafter, the county auditor of each county shall certify to the state tax commissioner, on forms prescribed by him the tax commissioner, the following information:
 - (1) The name and address of each person for whom the special assessment credit provided for in

- subsection 1 was allowed for the preceding year; ~~the.~~
- (2) ~~The~~ amount of credit allowed for the special assessment or installment thereof; ~~the.~~
- (3) ~~The~~ total amount of the special assessment credits due in each special assessment district ~~and such other.~~
- (4) ~~Other~~ information ~~as may be prescribed by that~~ the tax commissioner ~~requires.~~
- b. The tax commissioner shall audit ~~such~~ the certifications, make such corrections as may be required, and certify to the state treasurer for payment to each county ~~on or before~~ by June 1, 1983, ~~and prior to that same date~~ first of each year ~~thereafter,~~ the sum of the amounts computed by adding the special assessment credits allowed for each homestead in the county for the preceding year.
- c. The county treasurer upon receipt of the payment from the state treasurer shall forthwith apportion and distribute the payment to each special assessment district in the county according to the total credits allowed for each respective special assessment district.
- d. 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.
3. a. Any credit allowed under subsection 1, plus interest in the amount of nine percent per year from the time the credit is taken, shall create a lien in favor of the state against the property upon which the special assessment credit is allowed and shall remain a lien upon the property from the time the credit is allowed until the lien is fully satisfied by depositing the amount of the lien in the state general fund. ~~Ne~~
- b. (1) ~~Except as otherwise provided in this subdivision,~~ no transfer of title to the homestead because of sale, death, or otherwise shall be made without the lien being satisfied. ~~At the time~~ When a credit under subsection 1 is allowed, the county auditor shall cause a notice of lien of record to be filed against subject property with the register of deeds.

(2) When a transfer occurs between spouses because of the death of one of them, the lien allowed by this section need not be satisfied until the property is again transferred.

- c. This lien shall have precedence over all other liens except general tax liens and prior special assessment liens and shall not be divested at any judicial sale. No mistake in the description of the property covered by this lien or in the name of the owner of such property shall defeat the lien if the property can be identified by the description in the special assessment list.

SECTION 2. EFFECTIVE DATE. This Act applies to special assessments and installments thereof that become payable on or after January 1, 1984, and to transfers occurring on or after January 1, 1983.

Approved March 10, 1983

CHAPTER 604

HOUSE BILL NO. 1052
(Legislative Council)
(Interim Finance and Taxation Committee)

AGRICULTURAL LAND ASSESSMENT

AN ACT to amend and reenact section 57-02-27.2 of the North Dakota Century Code, relating to the assessment of agricultural land; to provide an effective date; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 57-02-27.2 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-27.2. Valuation and assessment of agricultural lands. "True and full value" of agricultural lands shall be their agricultural value for the purposes of sections 57-02-27, 57-02-27.1, 57-02-27.2, and 57-55-04. Agricultural value shall be defined as the "capitalized average annual gross return". The "annual gross return" shall be determined from crop share rent, cash rent, or a combination thereof reduced by estimated property taxes and crop marketing expenses incurred by farmland owners renting their lands on a cash or crop share basis. For purposes of this section, "annual gross return" for cropland used for growing crops other than sugar beets and potatoes means thirty percent of annual gross income produced, "annual gross return" for cropland used for growing sugar beets and potatoes means twenty percent of annual gross income produced, and "annual gross return" for land used for grazing farm animals means ~~fifty~~ twenty-five percent of an amount determined by the agricultural economics department at North Dakota state university to represent the annual gross income potential of the land ~~which would be produced if the land were used for the growing of hay based upon the animal unit carrying capacity of the land.~~ The "average annual gross return" for each county shall be determined as follows:

1. ~~Take Total~~ the annual gross returns for the most recent six years immediately preceding the current year for which data is available and discard the highest and lowest annual gross returns of the six.

2. Of the four annual gross return figures remaining, determine the sum of the following:
 - a. Four times the annual gross return figure for the greatest figure, plus,
 - b. Three times the annual gross return figure for the second greatest figure, plus,
 - c. Two times the annual gross return figure for the third greatest figure, plus,
 - d. The annual gross return figure for the smallest figure.
3. Divide the figure arrived at in subsection 2 1 by ten four.

To find the "capitalized average annual gross return" for years after 1983, the average annual gross return shall be capitalized by a five-year rate which is one-half of one percentage point below a ten-year average of the gross federal land bank mortgage rate of interest for North Dakota. The five-year ten-year average shall be computed from the most recent five years of the six years twelve years ending with the most recent year used in subsection 1, discarding the highest and lowest years, and the gross federal land bank mortgage rate of interest for each year shall be determined in the manner provided in section 20.2032A-4(e)(1) of the United States treasury department regulations for valuing farm real property for federal estate tax purposes, except that the interest rate shall not be adjusted as provided in paragraph (e)(2) of section 20.2032A-4. To find the "capitalized average annual gross return" for 1981, 1982, and 1983, the average annual gross return shall be capitalized at seven and one-half percent. Notwithstanding the other provisions of this section, the maximum increase or decrease in the capitalization rate in any two-year period is three-tenths of one percentage point above or below the capitalization rate for the year preceding the two-year period.

It shall be the duty of the agricultural economics department of North Dakota state university to compute annually an estimate of the average agricultural value per acre [.40 hectare] of agricultural lands on a statewide and on a countywide basis, to compute the average agricultural value per acre for cropland and noncropland, which is agricultural land, for each county, and to provide the tax commissioner with this information by December first of each year. Prior to January first of each year the tax commissioner shall provide to each county director of tax equalization this estimate these estimates of agricultural value for each county.

Prior to February first of each year the county director of tax equalization in each county shall provide to all assessors within the county an estimate of the average agricultural value of

agricultural lands within each assessment district. Such estimate shall be based upon the average agricultural value for the county adjusted by the relative values of lands within each assessment district compared to the county average. In determining the relative value of lands for each assessment district compared to the county average, the county director of tax equalization shall, wherever possible, use soil type and soil classification data from detailed and general soil surveys. Where such data cannot be used, the county director of tax equalization shall use whatever previous assessment data is best suited to the purpose.

It shall be the duty of each local assessor to determine the relative value of each assessment parcel within his jurisdiction and to determine the agricultural value of each assessment parcel by adjusting the agricultural value estimate for the assessment district by the relative value of the parcel. Each parcel shall then be assessed according to the provisions in section 57-02-27. If either a local assessor or a township board of equalization develops an agricultural value for the lands in its assessment district differing substantially from the estimate provided by the county director of tax equalization, written evidence to support the change shall be provided to the county director of tax equalization.

SECTION 2. EFFECTIVE DATE. The provisions of this Act shall be effective for assessments of property made, and taxable years beginning, on or after January 1, 1983.

SECTION 3. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved April 28, 1983

CHAPTER 605

HOUSE BILL NO. 1442
(Koski)

**DOMESTIC PUBLIC LAND MOBILE RADIO
TAXATION**

AN ACT to amend and reenact section 57-06-01 of the North Dakota Century Code, relating to the ad valorem taxation of domestic public land mobile radio services.

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

SECTION 1. AMENDMENT. Section 57-06-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-06-01. Public utilities subject to provisions of chapter. The provisions of this chapter shall govern the assessment of the property of any public utility company defined in section 57-06-02, and of any other company used directly or indirectly in carrying or conveying persons, property, or messages, unless the operative property is subject to a lieu tax in place of a general property tax. This chapter shall not apply to the property of any railway or street railway company, nor to the personal property of a company, the only business of which is providing signaling, paging, or other similar message domestic public land mobile radio service in which only one-way communication is possible if that service has seven hundred subscribers or less, and except as otherwise provided in chapter 57-32, shall not apply to the property of any car line, express or air transportation company.

Approved April 6, 1983

CHAPTER 606

SENATE BILL NO. 2065
 (Legislative Council)
 (Interim Political Subdivisions Committee)

POLITICAL SUBDIVISION TAX LEVIES REFERENCE CONSOLIDATION

AN ACT to create and enact thirteen new sections to chapter 57-15 of the North Dakota Century Code, relating to tax levies and limitations; to amend and reenact sections 2-06-15, 4-02-26, 4-02-27, 4-02-27.1, 4-02-27.2, 4-02-32, 4-02-37, 4-08-15, 4-08-15.1, 4-16-02, 4-33-11, 11-11-24, 11-11-46, 11-11-53, 11-11-60, 11-28-06, 11-28.2-04.2, 11-28.3-03, 15-18-04.2, 15-18-05, 15-20.1-08, 15-34.2-06, 15-39.1-28, 15-47-21, 15-59-08, 18-06-10, 18-07-01, 18-10-07, 18-10-14, subsection 4.1 of section 21-03-06, sections 23-18-01, 23-18.2-12, subsection 10 of section 23-24-08, sections 23-24-09, 23-30-07, 24-05-01, 32-12.1-08, 32-12.1-11, 40-05-09.1, 40-05-09.2, subsection 1 of section 40-38-02, sections 40-38.1-02, 40-43-01, 40-45-01, 40-45-02, 40-46-02, 40-46-02.1, 40-48-07, 40-49-22, 40-57.2-04, 40-59-01, 49-17.2-21, 49-17.2-23, subsection 3 of section 52-09-08, subsection 3 of section 57-15-06, subsection 1 of section 57-15-06.3, sections 57-15-06.4, 57-15-06.5, 57-15-06.6, 57-15-10, 57-15-10.1, 57-15-15, 57-15-18.1, 57-15-18.2, 57-15-19.4, 57-15-19.5, 57-15-19.6, 57-15-28, 57-15-36, 57-15-37, 57-15-37.1, 57-15-38, 57-15-42, 57-15-43, 57-15-44, 57-15-48, 57-15-49, 57-15-50, 57-15-51.1, 57-15-52, 57-15-52.1, 57-15-53, 57-15-54, 57-15-55, 57-15-56, 57-15-57, 57-19-04, 57-47-04, 58-17-02, 61-16.1-06, and 61-24.2-08 of the North Dakota Century Code, relating to tax levies and limitations of political subdivisions.

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

* SECTION 1. AMENDMENT. Section 2-06-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-06-15. County tax levy for airport purposes. In counties supporting airports or airport authorities, a levy ~~in addition to all other levies permitted by law, not to exceed four mills on the net taxable valuation of property in such county exceeding the~~ limitation in subsection 1 of section 55 of this Act, may be made

* NOTE: Section 2-06-15 was also amended by section 1 of Senate Bill No. 2320, chapter 86, and section 1 of Senate Bill No. 2071, chapter 593.

for such purposes, but such this levy shall not apply to any city or park district that already has an airport levy.

* SECTION 2. AMENDMENT. Section 4-02-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-26. County fairs - Organized when - Aiding. A county fair association may be organized in any county having taxable ~~realty~~ and ~~personalty~~ property of an assessed a taxable valuation of not less than ~~one and one-half million~~ seven hundred fifty thousand dollars. The executive officers and directors shall be residents of the county. The association may apply to the board of county commissioners of the county for a grant to aid in the erection of suitable buildings and other improvements to accommodate its patrons and exhibits, and to pay premiums and expenses that may be awarded on such exhibits at any fair. An application for the grant shall be in writing and shall state the incorporation of the association, the names and places of residence of all its executive officers, and the ownership of real property in the county sufficient in area for the purpose of its fair and of the value of at least twenty-five hundred dollars. If the board of county commissioners ~~shall be~~ is satisfied that the statements in the application are true and that the association intends in good faith to hold a fair within the county annually for the exhibition of agricultural, horticultural, mechanical, and manufactured products of the county, and of such articles as are usually exhibited at fairs, it may levy for the first year's grant of aid a tax ~~which shall not exceed one-half of one mill on all the taxable property within the county, and the same not exceeding the limitation in subsection 1 of section 67 of this Act which shall be collected as other taxes are collected.~~ If the tax is levied, the board of county commissioners shall pay to the secretary of the association, not later than July thirty-first thereafter, the amount of the tax levied and shall take the receipt of the association therefor.

SECTION 3. AMENDMENT. Section 4-02-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-27. Reports required of county fair associations - Tax levies for support thereof. Any county fair association receiving the aid provided for in this chapter, at the regular meeting of the board of county commissioners held in the month of January following the holding of such county fair, shall make a full report to the board of all moneys received by it from all sources and of all disbursements. The report shall show the amount of the debts and the amount of moneys in the treasury of the association, and the amount of any deficit after the payment of its expenses, and shall contain an estimate of the amount, if any, which it will be necessary to raise above the estimated ordinary receipts of the association for the purposes of its fair for the ensuing year. The report and estimate shall be verified by the oath of the president, or vice president, the secretary, treasurer, and a majority of the board of directors of the association. After the filing and approval of the report, the board of county commissioners shall levy

* NOTE: Section 4-02-26 was also amended by section 2 of Senate Bill No. 2071, chapter 593.

a tax for the current year equal to the estimate contained in the association's report, if the report filed shows that the funds have been expended legally and if the levy is approved by the voters. The tax levied for the current year shall not exceed ~~one-fourth of one mill upon the taxable property in the county~~ the limitation in subsection 2 of section 67 of this Act, and the amount levied shall be paid to the association as provided in section 4-02-26.

SECTION 4. AMENDMENT. Section 4-02-27.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-27.1. Additional levy authorized. The board of county commissioners may, by appropriate resolution, submit to the electors of the county at the next special or general election, the question of whether an annual tax levy of ~~not to exceed one-half mill upon all taxable property in the county~~, in addition to the levy provided in section 4-02-27 of this code, shall be authorized for the purposes of aiding a county fair association. If ~~such~~ an additional levy is approved by the electors, the board of county commissioners ~~shall be authorized to~~ may make ~~such~~ the additional annual levy, not to exceed ~~one-half mill~~ the limitation in subsection 3 of section 67 of this Act, and disburse the proceeds ~~thereof~~ in the manner provided in section 4-02-27 for the levy and disbursement of other county fair association aid funds. The failure of the electors to approve any additional mill levy under the ~~provisions~~ of this section shall not be construed as invalidating a levy ~~previously~~ approved by ~~such~~ ~~electors~~ prior to ~~such~~ the election.

* SECTION 5. AMENDMENT. Section 4-02-27.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-27.2. Additional levy in certain counties. The board of county commissioners of any county having a population in excess of twenty-five thousand, according to the latest federal decennial census, shall, when petitioned by at least five percent of the electors of the county, including electors residing in at least one-half of the voting precincts of the county as determined by the number of votes cast in the county for the office of governor at the ~~last~~ preceding general election, submit to the electors of the county at any general election or special election called for such purpose, the proposition of authorizing the board of county commissioners to purchase or lease in the name of the county not to exceed two hundred and forty acres of real estate and to construct thereon such buildings and other improvements as may be deemed desirable for the conduct of a county fair and authorizing the board of county commissioners, ~~in the event that if~~ the county general fund is deemed insufficient to provide funds therefor, to levy a tax of ~~not to exceed two mills in any one year for a period of not to exceed ten years upon the net taxable valuation of property in the county~~ not exceeding the limitation in subsection 2 of section 55 of this Act. If a majority of the votes cast at ~~such~~ the election are in favor of the proposition, including the proposed levy, the tax shall be levied and collected as are other property taxes, with the proceeds ~~thereof~~ to be placed into a fund to be known as the "county

* NOTE: Section 4-02-27.2 was also amended by section 3 of Senate Bill No. 2071, chapter 593.

fair fund". Such The tax shall be in addition to any mill levy limitations provided by law, including the levies authorized by sections 4-02-27 and 4-02-27.1.

SECTION 6. AMENDMENT. Section 4-02-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-32. Expenses of leasing and purchasing - How paid. The purchase or lease price of the land and the cost of buildings and making the improvements may be paid out of the general fund of the county if the fund is sufficient after meeting all other obligations imposed on it. If the general fund of the county is insufficient, the board of county commissioners may assess a tax ever and above the amount authorized to be levied for general purposes on all of the taxable property within the county, not to exceed one-half mill not exceeding the limitation in subsection 3 of section 55 of this Act in any one year, to raise the necessary money for the purchase or lease of the land, the erection of the buildings, and the making of necessary improvements, and the. The moneys thus raised shall be placed in a fund to be designated as the "county fair fund". The land may be purchased or leased on installments, not to exceed five equal annual payments, and permanent improvements may be made to be paid for on installments of not to exceed five equal annual payments, and the. The board of county commissioners may issue county warrants for such deferred payments, to be paid out of the county fair fund as soon as there is sufficient money in the fund to take up the warrants in whole or in part. When the warrants are issued, a levy shall be made sufficient to pay the warrants in conformity with the terms of the purchase or lease.

* SECTION 7. AMENDMENT. Section 4-02-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-37. Multicounty fairs - Organized when - Tax levy. A county fair association may be organized in two or more counties having taxable realty and personalty property of an assessed a taxable valuation of not less than one and one-half million seven hundred fifty thousand dollars. The executive officers and directors shall be residents of the counties. The association may apply to the boards of county commissioners of the counties for a grant to aid in the erection of suitable buildings and other improvements to accommodate its patrons and exhibits, and to pay premiums and expenses that may be awarded on such exhibits at any fair. An application for the grant shall be in writing and shall state the incorporation of the association, the names and places of residence of all its executive officers, and the ownership of real property in one of the counties sufficient in area for the purpose of its fair and the value of at least twenty-five hundred dollars. If the boards of county commissioners shall be is satisfied that the statements in the application are true and that the association intends in good faith to hold a fair within one of the counties annually for the exhibition of agricultural, horticultural, mechanical, and manufactured products of the county, and of such articles as are usually exhibited at fairs, it may levy for the

* NOTE: Section 4-02-37 was also amended by section 4 of Senate Bill No. 2071, chapter 593.

first year's grant of aid a tax which shall not exceed one-half of one mill on all taxable property within the county not exceeding the limitation in subsection 4 of section 67 of this Act, and the same it shall be collected as other taxes are collected. If the tax is levied, the boards of county commissioners shall pay to the secretary of the association, not later than July thirty-first thereafter, the amount of tax levied and shall take the receipt of the association therefor. A multicounty fair association authorized by this section and the boards of county commissioners of such counties, may do all the things allowed by law that a county fair association organized under section 4-02-26 may do.

SECTION 8. AMENDMENT. Section 4-08-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-08-15. One-mill Tax levy - Appropriation from county general fund - Both authorized. The board of county commissioners of any county of this state in which a levy for county agent work has been voted on and approved by the people as provided for in sections 4-08-01 and 4-08-03 of this code, may levy not to exceed an amount necessary for such purpose, as provided in section 4-08-09 of this code, which amount shall not exceed one mill upon the taxable valuation of property in the county, and which levy shall not be restricted by the county tax levy limitation prescribed by law, not exceeding the limitation in subsection 4 of section 55 of this Act. If it shall determine determines that the amount derived from the authorized one-mill levy will not be sufficient for such purpose the board may appropriate in addition thereto additional funds out of the county general fund to cover such the deficiency.

SECTION 9. AMENDMENT. Section 4-08-15.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-08-15.1. County agent work - Additional mill levy. The board of county commissioners of any county, upon passage of a resolution, may submit, at the next regularly scheduled or special election in the county, the question of providing for an additional annual levy of not in excess of one mill not exceeding the limitation in subsection 5 of section 55 of this Act for county agent work. If the question submitted is approved by a majority of the electors voting thereon, the county commissioners shall proceed to make such the levy, which levy shall be ever and above any mill levy limitations provided by law. Upon approval of the levy for the county agent work, the board of county commissioners shall may expend such the funds in such the manner as it may deem deems best adapted to accomplish the purposes set forth by law. Such The levy may be discontinued upon the passage of a resolution by the board of county commissioners.

* **SECTION 10. AMENDMENT.** Section 4-16-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-16-02. Gopher, rabbit, and crow destruction fund - Levy - Expending. The board of county commissioners of any county in this state, at

* **NOTE:** Section 4-16-02 was also amended by section 5 of Senate Bill No. 2071, chapter 593.

any time fixed by law for the levy and assessment of taxes, may levy a tax not exceeding one-half of one mill on a dollar of the assessed valuation upon all real estate in the county. The proceeds of such levy shall be used solely for the purpose of promoting the destruction of gophers, rabbits, and crows in the county the limitation in subsection 6 of section 55 of this Act. The fund raised in accordance with this section shall be denominated the gopher, rabbit, and crow destruction fund, and shall be kept separate and distinct from other funds by the county treasurer. The fund shall be expended by the board at such time and in such manner as it deems best to secure the abatement and extermination of gophers, rabbits, and crows.

* SECTION 11. AMENDMENT. Section 4-33-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-33-11. Authority for financing local control programs. The governing body of any political subdivision of this state is authorized to may appropriate money for the control of pests. Such money shall be expended according to control plans approved by the commissioner. The governing body of a political subdivision shall determine the portion, if any, of control program costs that should be paid by the political subdivision. Costs of the control program may be paid by moneys in the emergency fund. ~~In the event~~ If the emergency fund is not sufficient to carry out the program, the governing body may expend money from the general fund and in such event the governing body may, upon approval of sixty percent of those voting in any special election or the next regularly scheduled primary or general election, levy a tax during the following year upon all taxable property in the political subdivision to fully reimburse the general fund for the amount expended except that such levy shall not exceed one mill on all taxable property the limitation in subsection 1 of section 59 of this Act. ~~The levy herein authorized shall be in addition to any mill levy limitation provided by law.~~

** SECTION 12. AMENDMENT. Section 11-11-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-24. Limitation on tax levy for extraordinary expenditure. The rate of tax levied by the board of county commissioners for an extraordinary outlay of money ~~in no case shall~~ may not exceed three mills on the dollar of the assessed valuation of the county in any one year the limitation in subsection 5 of section 67 of this Act. When the object is to establish a building fund to aid in the erection of public buildings, the rate shall be such as to raise the fund within six years, and the total sum to be so raised, including the then existing indebtedness of the county, shall not exceed five percent of its assessed valuation ~~according to the last assessment.~~ A special tax levied under the provisions of this chapter, after becoming delinquent, shall draw the same rate of interest as ordinary taxes.

SECTION 13. AMENDMENT. Section 11-11-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 4-33-11 was also amended by section 5 of Senate Bill No. 2241, chapter 104.

** NOTE: Section 11-11-24 was also amended by section 6 of Senate Bill No. 2071, chapter 593.

11-11-46. Payment of judgment obtained by state or an agency thereof against county - Duty of county commissioners and auditor. When a final judgment is obtained against a county by the state, or by any agency, bureau, department, or officer thereof, and a certified copy of the judgment has been filed with the county auditor, the board of county commissioners, at the meeting at which it levies taxes for general county purposes, shall levy an irrevocable tax upon all of the taxable property in the county in an amount sufficient to pay and discharge the judgment. ~~Such tax shall be in addition to all other taxes levied and shall not be subject to the tax levy limitation for general county purposes but shall be in addition thereto. The county auditor each year, when he~~ When the county auditor annually extends the taxes for general county purposes, the auditor shall also extend therewith and in addition thereto sufficient mills upon the tax list against all of the taxable property in the county to pay the judgment in full in annual installments over a period of not to exceed exceeding eight years. Levies made under this section, however, shall not exceed one mill in any one year the limitation in subsection 7 of section 55 of this Act.

SECTION 14. AMENDMENT. Section 11-11-53 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-53. Appropriation for historical works - Authorization of mill levy - Approval of state historical ~~society~~ board and attorney general.

1. The board of county commissioners of any county may appropriate out of the general fund of the county such sum, not exceeding five thousand dollars annually, as it may deem advisable, to be paid to the historical society of such county and used for the promotion of historical work within the borders of such county, including the collection, preservation, and publication of historical material, and to disseminate historical information of the county, and in general to defray the expense of carrying on historical work in such county.
2. The board of county commissioners ~~is hereby authorized to~~ may levy a tax, ~~in addition to all levies now authorized by law, of not exceeding one-quarter of one mill upon all taxable property in the county not exceeding the limitation in subsection 8 of section 55 of this Act,~~ for the promotion of historical works within the borders of such county and in general defray the expense of carrying on historical work in the county including, but not limited to, the maintenance of any historical room or building, and furthering the work of the historical society of such county. Such levy shall be in addition to any moneys appropriated from the general fund of the county for historical work as provided in subsection 1. The board of county commissioners may, by resolution, submit the question of an additional tax levy to the qualified electors of the county at the next countywide

general, primary, or special election. If sixty percent of the qualified electors voting thereon shall approve, a tax shall be levied not to exceed three-quarters of one mill exceeding the limitation in subsection 8 of section 55 of this Act, which tax may be expended as provided in this section.

3. The appropriation and levy authorized by this section shall not be used to defray any expenses of a county historical society until such society is incorporated under the laws of this state as a nonprofit corporation, is affiliated with and has its articles of incorporation and bylaws approved by the North Dakota state historical society board and the attorney general, and has contracted with the board of county commissioners in regard to the manner in which such funds received will be expended and the services to be provided; ~~provided; however; that historical.~~ Historical societies which qualified for county funds under the provisions of subsection 1 prior to July 1, 1965, shall not be required to have its articles of incorporation and bylaws approved by the attorney general to receive funds under the provisions of subsection 1.

SECTION 15. AMENDMENT. Section 11-11-60 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-60. Booster station mill levy authorized. The board of county commissioners of any county in the state in which an ultrahigh frequency booster station has been voted on and approved by the people as provided for in section 11-11-59, may levy, ~~not to exceed an~~ the amount necessary for such purpose, which amount levy shall not exceed two mills, upon the taxable valuation of the property in the county. This levy shall not be restricted by the county tax levy limitation prescribed by law the limitation in subsection 9 of section 55 of this Act.

SECTION 16. AMENDMENT. Section 11-28-06 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28-06. Tax levy by board of county commissioners. At the time of levying taxes for other county purposes, the board of county commissioners shall consider the certificate and budget statement of the board of county park commissioners and shall levy each year upon all taxable property in the county a tax sufficient in amount to pay the actual necessary expenses and activities program of the board of county park commissioners, including construction, improvement, repair, operation, and maintenance of the park and recreational areas and their facilities under its control and those recreational activities of benefit to the general populace of the county which are under the control of a city or a city park district within the county, not exceeding one mill on each dollar of the taxable

valuation of the county, which tax may be levied in excess of the mill limit fixed by law for taxes for general purposes the limitation in subsection 10 of section 55 of this Act. No levy in excess of one mill this limitation shall be made without approval of the eligible voters in the county at a special or general election. The county auditor shall credit the proceeds of such tax to the separate fund of the board of county park commissioners. This levy shall not apply to cities that already have a park levy unless the governing body of such the city by resolution consents to such the levy.

* SECTION 17. AMENDMENT. Section 11-28.2-04.2 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28.2-04.2. Powers of recreation service districts - General tax levy. The board of recreation service district commissioners of a recreation service district created under the provisions of this chapter may, upon proper resolution of the board, levy a tax for general purposes in addition to all other levies permitted by law, not to exceed one mill on the net taxable valuation of property in the district exceeding the limitation in section 60 of this Act.

SECTION 18. AMENDMENT. Section 11-28.3-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28.3-03. Notice of election. In addition to the usual requirements of notices of election, the notice for an election at which the question provided for in this chapter will be voted upon shall include a statement describing the boundaries of the proposed rural ambulance service district, expressed, wherever possible, in terms of the government survey, a statement setting forth a specified mill levy for the proposed district, such mill which levy shall not to exceed five mills and a statement that only the property contained within the boundaries of the proposed district will be taxed exceed the limitation in section 61 of this Act. The notice of election shall also state the voting areas in which the question provided by this chapter will be on the ballot.

** SECTION 19. AMENDMENT. Section 15-18-04.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-04.2. Mill levy for off-campus educational facilities - Election. For the purpose of maintaining and operating such off-campus educational center the school board may levy, upon their own resolution, eight mills. If it is found, after the board by resolution has levied its maximum eight mills, that additional funds are needed, the board may submit the question of an additional mill levy not to exceed eight mills, to the electors of the district at any regular or special school election within the district. If approved by sixty percent of the electors voting, the school board may proceed with the levy and collection of the tax. In no case shall the total mills levied

* NOTE: Section 11-28.2-04.2 was also amended by section 7 of Senate Bill No. 2071, chapter 593.

** NOTE: Section 15-18-04.2 was also amended by section 7 of Senate Bill No. 2073, chapter 192, and section 1 of Senate Bill No. 2047, chapter 608.

under this section exceed sixteen. Such levy shall be in addition to all other mill levy limitations provided by law, and the proceeds shall be placed in a separate fund, accounted for separately, and used exclusively for the support, operation, and maintenance of such off-campus educational center. Expenditures may be made by the school board without going through the institution of higher education with whom an agreement has been entered a tax not exceeding the limitation in subsection 3 of section 57-15-15.

* SECTION 20. AMENDMENT. Section 15-18-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-05. County levy to aid junior college or educational center authorized. The board of county commissioners of any county, or part of a county, in which a junior college or off-campus educational center of a state-supported institution of higher education has been established, or any county, or part of a county, adjacent thereto, may upon approval of the electors of such county at a countywide election, levy a tax of not exceeding five mills upon all property in such county the limitation in subsection 11 of section 55 of this Act, to aid any special school district having established a junior college or off-campus educational center of a state-supported institution of higher education. The mill levy herein authorized shall be over and above any mill levy limitation provided by law. At any time after After the approval of such levy, upon petition of five percent of the electors voting in the last preceding countywide election, the county commissioners shall submit the question of the continuance of such the levy to the next countywide election, and if the majority of the electors shall vote to discontinue such the levy, the levy shall be discontinued in subsequent years.

** SECTION 21. AMENDMENT. Section 15-20.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20.1-08. Mill levy for vocational education programs.

1. Any school district may, upon resolution of the school board, and approval of sixty percent of those voting on the question at a regularly scheduled or special election in the school district, levy a tax of not to exceed ten mills upon all taxable property within such school district not exceeding the limitation in subsection 4 of section 57-15-15 for the purpose of participating in cooperative vocational education programs approved by the state board. Such levy shall be in addition to any other mill levies authorized by law.
2. Any school district may, upon resolution of the school board, and approval of sixty percent of those voting on the question at a regularly scheduled or special election in the school district, levy a tax of not to exceed five mills upon all taxable property within such school district not exceeding the limitation in subsection 4 of

* NOTE: Section 15-18-05 was also amended by section 9 of Senate Bill No. 2073, chapter 192, and section 2 of Senate Bill No. 2047, chapter 608.

** NOTE: Section 15-20.1-08 was amended by section 1 of House Bill No. 1253, chapter 202, and repealed by section 22 of Senate Bill No. 2047, chapter 608.

section 57-15-15 for the purpose of maintaining a vocational education program only for that school district and approved by the state board. ~~The levy shall be in addition to any other mill levies authorized by law.~~

SECTION 22. AMENDMENT. Section 15-34.2-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34.2-06. Payment of board and lodging for high school students permitted - Levy. If more convenient or economical, any school district may pay a reasonable allowance instead of providing vehicular transportation for eligible high school students residing in the district to attend a county agricultural and training school or a high school in another district. Any school district that furnishes either transportation or an allowance for board and lodging for students attending high schools in another district may levy a tax ~~not to exceed five mills exceeding the limitation in subsection 5 of section 57-15-15 for such purposes, which levy shall not be subject to any mill levy limitations prescribed by law.~~

* SECTION 23. AMENDMENT. Section 15-39.1-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-28. Mill levy for teachers' retirement. Any school district by a resolution of its school board may levy a tax ~~of not to exceed forty mills on the assessed taxable valuation within the district not exceeding the limitation in subsection 6 of section 57-15-15,~~ the proceeds to be used for the purposes of meeting the district's contribution to the fund arising under this chapter and to provide the district's share, if any, of contribution to the fund for contracted employees of either a multidistrict special education board or another school district where the contracted employees are also providing services to the taxing school district. ~~The mill levy permitted by this section shall be in addition to any tax levy limitations now prescribed by law.~~

SECTION 24. AMENDMENT. Section 15-47-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-21. Tax levies for equalization between school districts limited - Remittance tax. When the amount to be levied on each of several districts or parts of districts affected by a change in school district boundaries has been determined, a list of the several amounts shall be made, and the respective amounts shall be set forth opposite the name of the district to which it is chargeable. The entire levy shall be stated substantially in the form provided for certifying school taxes, shall be addressed to the county auditor, and shall be signed by a majority of the members of the county committee or committees. Opposite the several descriptions of property on the tax list shall be entered the names of the school districts within which the property is situated. The levy shall be a valid levy on the taxable property of each district, and shall not

* NOTE: Section 15-39.1-28 was also amended by section 4 of Senate Bill No. 2047, chapter 608, and section 10 of Senate Bill No. 2071, chapter 593.

exceed the limitation in subsection 7 of section 57-15-15. Not more than fifteen mills of the levy shall be extended against the taxable property in any one year, and the levy, not exceeding fifteen mills on the dollar, shall be extended from year to year until the whole amount has been levied. The county auditor shall preserve the levies and shall extend the several rates from year to year as required by law for school district taxes, and the tax shall be collected at the same time and in the same manner as other taxes are collected, and paid over to the proper school district within which the property upon which the tax is paid is situated. The proceeds of taxes upon parts of districts lying outside of the district with which they are equalized shall be paid to the clerk of the school district within which the property is situated. The taxes levied for equalization purposes shall be in addition to all other taxes for school purposes. The provisions of this section shall apply to proceedings under article II, annexation, and article IV, involuntary dissolution of chapter 15-53.1, but shall not apply to article III, reorganization, of chapter 15-53.1 except where specifically so referenced.

SECTION 25. AMENDMENT. Section 15-59-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-08. School district special education program - Financing - Levy - Limitations of levy. The school board of any school district may budget funds from the school district general fund for a special education program for the school district. The school board may, upon approval by a majority of the school board, levy a tax not to exceed a total of ten mills upon all taxable property in the school district exceeding the limitation in subsection 8 of section 57-15-15 for the purpose of carrying out a special education program for the school district, separately or in cooperation with other school districts. The levy provided in this section shall be ever and above any mill levy limitations provided by law and shall be collected and paid in the same manner as are other school district property taxes. The county treasurer shall credit the proceeds of the tax levy to a school district special education fund. Such funds fund shall be expended for the school district special education program.

SECTION 26. AMENDMENT. Section 18-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-06-10. Township may contract for prevention and extinguishment of fires. The electors of each township shall have the power at the annual township meeting to may authorize and empower the board of township supervisors to levy, not to exceed a one-mill tax exceeding the limitation in subsection 1 of section 56 of this Act, and to provide by contract or otherwise, for the prevention of, protection from, and extinguishment of fires within the townships, in such manner as the board of supervisors shall deem advisable.

When so authorized, the supervisors may enter into a five-year contract and levy, not to exceed a one-mill tax exceeding the

limitation in subsection 1 of section 56 of this Act, for the payment of the services obtained under such contract. ~~The mill levy provided for herein shall be over and above any mill levy limitation provided by law, and shall be collected and paid in the same manner as other taxes are collected and paid.~~ Such contract may be renewed or renegotiated for another five-year period upon authorization by the electors of the township at the annual meeting.

SECTION 27. AMENDMENT. Section 18-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-07-01. Petition to board of county commissioners to establish firebreaks - Tax levied. Whenever a petition asking that firebreaks be established in a county is signed by at least ten percent of the qualified electors of the county, as determined by the number of votes cast for the office of governor at the last preceding general election, and is presented to the board of county commissioners, the board, at the time of levying other taxes in each year, may levy, ~~subject to the tax levy limitations prescribed in this code,~~ an amount not exceeding five mills on the dollar upon all taxable property in the county ~~the limitation in subsection 6 of section 67 of this Act~~ for the purpose of making firebreaks in the county. The money collected by such as a result of the levy shall be known as the "firebreak fund".

SECTION 28. AMENDMENT. Section 18-10-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-07. Fire protection policy to be determined - Mill levy. The board of directors shall ~~have the power and duty to~~ determine upon a general fire protection policy for the district and shall annually estimate the probable expense for carrying out ~~such the~~ contemplated program. Such The estimate shall be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year, who shall levy a tax upon the taxable property within ~~said the~~ district for the maintenance of the fire protection district for the fiscal year as provided by law. ~~The tax shall not exceed five mills, except upon resolution adopted by the board of directors after receipt of a petition by not less than twenty percent of the electors residing within the district, the levy may be made in an amount not to exceed ten mills the limitation in section 62 of this Act.~~ No signature on the petition shall be considered valid if made more than ninety days prior to receipt of the petition. The tax shall be:

1. Collected as other taxes are collected in the county;
2. Turned over to the secretary-treasurer of the rural fire protection district, who shall have a surety bond in the amount of at least five thousand dollars;
3. Placed to the credit of the rural fire protection district so authorizing the same by its secretary-treasurer in a state or national bank; and

4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president of the rural fire protection district.

~~In no case shall the~~ The amount of tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense including the amount of principal and interest upon the indebtedness of the district for the ensuing year.

SECTION 29. AMENDMENT. Section 18-10-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-14. Rate of tax fixed. The rate of tax for functions pursuant to this chapter shall not exceed the limitation in section 62 of this Act for the purchase of rural firefighting equipment in rural fire districts which may be organized upon petition of sixty percent of the freeholders, comprising an area of one or more townships, or for the purpose of assisting and contributing to the purchase and upkeep of firefighting equipment in adjoining cities ~~not more than five mills per dollar valuation upon the property in the rural fire district except, upon resolution adopted by the board of directors upon receipt of a petition by not less than twenty percent of the electors residing within the district, the levy may be increased up to ten mills. The provisions of this~~ This section shall does not limit the authority of the district to issue bonds and levy taxes for their payment in accordance with chapter 21-03.

* SECTION 30. AMENDMENT. Subsection 4.1 of section 21-03-06 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 4.1. By any school district having a community or junior college or off-campus educational center as provided in chapter 15-18 which has an enrollment of one thousand or more students, upon motion of the governing body, for capital construction purposes, including the construction and equipping of new buildings or repairing or renovating and equipping of existing buildings. The governing body may levy a tax not exceeding two mills on the dollar of the net assessed valuation of the school district the limitation in subsection 9 of section 57-15-15 for the purpose of paying the principal and interest on bonds issued pursuant to this subsection. The mill levy authorized by this subsection shall be in addition to any mill levy limitations provided by law. The total principal amount of bonds issued pursuant to this subsection shall not exceed seven hundred thousand dollars, and any indebtedness incurred by a school district shall be within debt limitations established by

* NOTE: Section 21-03-06(4.1) was also amended by section 13 of Senate Bill No. 2071, chapter 593, and section 9 of Senate Bill No. 2047, chapter 608.

law. Bonds issued under this subsection shall never become a general obligation of the state of North Dakota.

* SECTION 31. AMENDMENT. Section 23-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18-01. Hospital associations authorized - County tax levy in aid - Election. A county or community hospital association may be established in any county in this state. The executive officers and directors shall be residents of the county. The association may apply to the board of county commissioners of the county for a grant to aid in the erection of a nonsectarian county hospital. The application for the grant shall be in writing and shall state the incorporation of the association, the names and places of residence of all of its executive officers, and the assets of the association, and shall specify the mill rate of levy applied for, which shall not be in excess of eight mills upon the assessed valuation of the taxable property in the county the limitation in subsection 12 of section 55 of this Act. If the board of county commissioners shall be satisfied that the statements in the applications are true and that the association intends in good faith to establish a nonsectarian county or community hospital, it shall submit to the electors of the county the question of levying a tax in aid of such nonsectarian county or community hospital, for not more than five years at the mill rate as specified in the application, but not in excess of eight mills in any one year, or, in the alternative, for not more than fifteen years at a mill rate not in excess of five mills in any one year not exceeding the limitation in subsection 12 of section 55 of this Act. The county auditor shall give notice of such election within the time and in the manner prescribed by law for the holding of county elections.

** SECTION 32. AMENDMENT. Section 23-18.2-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18.2-12. Tax levy may be certified by nursing home authority. The nursing home authority may certify annually to the board of county commissioners a tax of not to exceed five mills upon the net taxable valuation of the property in the county not exceeding the limitation in subsection 13 of section 55 of this Act for a "nursing home fund" which tax may be levied by the board of county commissioners in excess of the mill limit fixed by law for taxes for general county purposes. The proceeds of the tax collected in such the fund shall be used first for the payment of principal and interest on any bonds, issued under the provisions of this chapter, which may be due or about to become due. The remaining proceeds in such the fund may also be used for any other corporate purpose of the authority, including but not limited to costs of operation and costs of obligations entered into with private nursing homes.

SECTION 33. AMENDMENT. Subsection 10 of section 23-24-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 23-18-01 was also amended by section 15 of Senate Bill No. 2071, chapter 593.

** NOTE: Section 23-18.2-12 was also amended by section 18 of Senate Bill No. 2071, chapter 593.

10. After organization and on or before July first in each year thereafter, adopt a budget showing estimated expenses for the ensuing fiscal year commencing July first and by resolution submit ~~such~~ the budget to the board of county commissioners in each county in which the district is located. The board of county commissioners shall consider ~~such~~ the budget and by resolution levy a tax ~~of not to exceed one mill on each dollar of taxable valuation in the district or part thereof not exceeding the limitation in section 58 of this Act~~ and direct the county auditor to file ~~such~~ the budget and spread the levy on ~~his~~ the tax roll.

SECTION 34. AMENDMENT. Section 23-24-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-24-09. District budget - Tax levy. When a vector control district has been created and a board of commissioners ~~thereof~~ has been organized, the board shall estimate the expenses of the district from the date of its establishment until the end of the ensuing fiscal year and before July first in each year and thereafter shall estimate district expenses for the fiscal year ensuing. Estimates of district expenses may include all outlays necessary to carry out the powers of the board herein provided for. Upon completion and adoption of a budget covering necessary expenses, the board of commissioners shall send a copy of such budget to the county auditor of each county in the district. If a district is situated in more than one county, the estimate shall be apportioned to the counties affected. Such county auditor shall transmit the same to the board of commissioners of his county. The board of county commissioners of each county in which the district is situated shall by resolution levy, authorize and direct their county auditor to extend and spread upon the tax roll of ~~his~~ the county a tax ~~of not to exceed one mill on each dollar of taxable valuation in the district or part of district situated in the county in the same manner and with the same effect as general property taxes are extended and spread not exceeding the limitation in section 58 of this Act~~. Funds produced each year by such tax levy shall be available until expended and if such tax levy in any year will not produce sufficient revenue to cover district expenses a fund sufficient to pay the same may be accumulated.

SECTION 35. AMENDMENT. Section 23-30-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-30-07. Mill levy authorized. The board of directors shall annually estimate the probable expense for operating the hospital district. ~~Such~~ The estimate shall be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year. The auditor or auditors shall levy a tax ~~not to exceed five mills upon the taxable property within said district exceeding the limitation in section 63 of this Act~~ for the maintenance of the district for the fiscal year as provided by law. ~~Said~~ The tax shall be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the district, who shall have a surety bond ~~so~~ set by the board of directors in the amount of at least five thousand dollars.
3. Placed to the credit of the district ~~so~~ authorizing ~~the same~~ it by its secretary-treasurer in a state or national bank qualifying as a public depository.
4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president of the district.

~~In no case shall the~~ The amount of ~~the~~ tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense including the amount of principal and interest upon the indebtedness of the district for the ensuing year.

* SECTION 36. AMENDMENT. Section 24-05-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-05-01. County road tax - Allocation and use of funds. In each county ~~of this state~~ having a population of two thousand or more ~~according to the latest United States or state census~~, there shall be levied and collected a property tax of not less than one-fourth of one mill, nor more than the maximum rate permitted by ~~law~~ section 57-15-06, on each dollar of the assessed taxable valuation of all taxable property in the county for the improvement of highways. When authorized ~~to do so~~ by sixty percent of the electors voting upon the question at a regular or special election in any the county, the county commissioners may levy and collect a property tax ~~of not more than five mills on each dollar of the assessed valuation of all taxable property in the county for the improvement of highways, which levy shall be in addition to, and shall not be restricted by, the levy limitations of section 57-15-06 not exceeding the limitation in subsection 14 of section 55 of this Act.~~ The levy pursuant to such an election 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. Of the proceeds of ~~such the~~ tax collected on account of ~~real or personal~~ property situated within any city, by the county treasurer of the county in which ~~such the~~ city is located, twenty percent shall be turned over by ~~such the~~ treasurer to the auditor of ~~such the~~ city, in the manner provided in section 11-13-06 to be expended under the direction of the governing body of ~~such subdivision the city~~ in the improvement of ~~the its~~ streets and highways ~~thereof~~. All other proceeds of ~~such the~~ tax shall be kept

* NOTE: Section 24-05-01 was also amended by section 19 of Senate Bill No. 2071, chapter 593.

in a distinct fund to be known as the "county road fund" and shall be expended in the improvement of highways as provided in this chapter under the direction of the board of county commissioners. ~~Such taxes shall be in addition to all other taxes for highway purposes otherwise provided by law.~~ The provisions of this section in regard to allocation shall apply to the proceeds of any tax originally levied for other purposes if appropriated or transferred to the county road fund or for expenditure for road and bridge purposes. No allocation pursuant to this section shall include the proceeds received by the county as its share of the allocation made pursuant to section 54-27-19, nor shall any allocation under this section include moneys received from the state as the result of any other intergovernmental transfer.

SECTION 37. AMENDMENT. Section 32-12.1-08 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-12.1-08. Political subdivision insurance reserve fund - Mill levy.

1. A political subdivision may establish and maintain an insurance reserve fund for insurance purposes and may include in the annual tax levy of the political subdivision such amounts as are determined by the governing body to be necessary for the purposes and uses of the insurance reserve fund. ~~The tax levy provided by this section shall be ever and above all other mill levy limitations provided by law but shall not exceed five mills.~~ In the event authorized by this section shall not exceed the limitation in section 59 of this Act. If a political subdivision has no annual tax levy, the political subdivision may appropriate from any unexpended balance in its general fund such amounts as the governing body of the political subdivision shall deem necessary for the purposes and uses of the insurance reserve fund.
2. The fund established pursuant to this section shall be kept separate and apart from all other funds and shall be used only for the payment of claims against the political subdivision which have been settled or compromised, judgments rendered against the political subdivision for injuries arising out of risks established by this chapter, or costs incurred in the defense of claims.

SECTION 38. AMENDMENT. Section 32-12.1-11 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-12.1-11. Judgment against political subdivision - Additional tax levy. If a final judgment is obtained against any political subdivision, the governing body of the political subdivision may by resolution provide for the levy and collection of an annual tax upon all the taxable property within the political subdivision for the payment of such judgment. The amount levied under this section for the payment

of a judgment against a political subdivision shall not exceed five mills in any one year the limitation in section 59 of this Act.

* SECTION 39. AMENDMENT. Section 40-05-09.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05-09.1. Tax levy for fire department stations. Upon approval of a majority of the electors voting thereon at any regular election or special election called for such purpose, the governing body of any city may levy taxes annually, not in excess of five mills on the net taxable assessed valuation the limitation in subsection 8 of section 57-15-10, for the purpose of providing additional funds to meet the operational and maintenance costs of establishing stations for fire protection services. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law.

** SECTION 40. AMENDMENT. Section 40-05-09.2 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05-09.2. Contracting for fire protection service - Providing for the financing thereof. Any city may, upon resolution of its governing body, execute a contract with a nonprofit corporation for the provision of fire protection and firefighting services. Such contracts may be executed only with nonprofit corporations which shall have been in existence and shall have provided fire protection and firefighting services to the contracting municipality for a period of not less than twenty years.

Upon approval of sixty percent of the electors voting thereon at any regular election or special election called for such purpose, the governing body of any city may levy taxes annually, not in excess of fifteen mills on the net taxable assessed valuation, exceeding the limitation in subsection 9 of section 57-15-10 for the purpose of paying for contracted fire protection services and may also expend moneys otherwise available for the provision of such service. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law.

*** SECTION 41. AMENDMENT. Subsection 1 of section 40-38-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For the purpose of establishing and maintaining public library service, the governing body of a municipality or county authorizing the same shall establish a library fund. The library fund shall consist of annually levying and causing to be collected as other taxes are collected, a municipal or county tax not to exceed four mills on the net taxable assessed valuation of property in the municipality and not to exceed two mills on the net taxable assessed valuation of property in the county, exceeding the limitations in subsection 15 of section 55

* NOTE: Section 40-05-09.1 was also amended by section 20 of Senate Bill No. 2071, chapter 593.

** NOTE: Section 40-05-09.2 was also amended by section 21 of Senate Bill No. 2071, chapter 593.

*** NOTE: Section 40-38-02(1) was also amended by section 23 of Senate Bill No. 2071, chapter 593.

of this Act and subsection 5 of section 57-15-10 and any other moneys received for library purposes from federal, state, county, municipal, or private sources.

* SECTION 42. AMENDMENT. Section 40-38.1-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38.1-02. Municipal arts fund - Levy - Collection - Kept separate. For the purpose of establishing and maintaining the municipal arts council, the governing body of a city authorizing the same shall establish a municipal arts fund. The fund shall consist of revenues from any city property tax authorized by this section, which levy may be made by the city at the direction of the municipal arts council in any amount, but not to exceed ~~five mills on the net taxable assessed valuation of property in the city, exceeding the~~ limitation in subsection 7 of section 57-15-10 and any other moneys received from federal, state, county, city, or private sources. The city auditor shall keep the municipal arts fund separate and apart from the other money of the city, and it shall not revert to or be considered funds on hand by the governing body at the end of any fiscal year. The municipal arts fund shall be used exclusively for the establishment and maintenance of the municipal arts council and for grants by the council to appropriate arts organizations in the city. Upon motion of the governing body or upon petition of not less than twenty-five percent of the voters in the last general election of the city, filed not less than sixty days before the next regular election, the governing body shall submit to the voters at the next regular election the question of whether such governing body shall annually levy a specified amount not to exceed five mills for the municipal arts council.

SECTION 43. AMENDMENT. Section 40-43-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-43-01. Judgment against municipality - Additional tax levied. If a final judgment is obtained against any municipality in this state, the governing body of the municipality, by resolution, may provide for the levy and collection of an annual tax upon all the taxable property within the municipality for the payment of such judgment. The amount levied under this section for the payment of a judgment against a municipality shall not exceed ~~five mills on the dollar in any one year. The taxes levied for the payment of a final judgment may be levied in addition to other taxes provided for by law~~ the limitation in subsection 4 of section 57-15-10.

SECTION 44. AMENDMENT. Section 40-45-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-01. Tax levy for policemen's pension fund authorized - Limitations. ~~In addition to any other levies authorized by law for general purposes, any~~ Any city having a population in excess of five thousand inhabitants according to the last official federal census and having an organized and paid police department may levy an

* NOTE: Section 40-38.1-02 was also amended by section 24 of Senate Bill No. 2071, chapter 593.

~~annual tax of not more than one mill not exceeding the limitation in subsection 10 of section 57-15-10 for the purpose of creating and maintaining a policemen's pension fund.~~

SECTION 45. AMENDMENT. Section 40-45-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-02. Tax levy for pension fund where retirement system based upon actuarial tables is maintained. Any city having established by law a police retirement system based upon actuarial tables may levy for the police pension fund, ~~in addition to any other levies authorized by law for general purposes, a total tax of not more than three mills not exceeding the limitation in subsection 11 of section 57-15-10.~~

* SECTION 46. AMENDMENT. Section 40-46-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-02. Tax levy for city employees' pension fund authorized - Limitations. ~~in addition to any other levies authorized by law for general purposes, any~~ Any city which has adopted a civil service system for city employees may levy an annual tax of ~~not more than five mills not exceeding the limitation in subsection 12 of section 57-15-10~~ for the purpose of creating and maintaining a city employees' pension fund. Any pension system shall be based on actuarial tables and actuarial valuation shall be performed at intervals of not more than five years.

** SECTION 47. AMENDMENT. Section 40-46-02.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-02.1. Tax levy for city employees' pension plan authorized - Limitations. ~~in addition to any other levies authorized by law, any~~ Any city which has not adopted a civil service system for its employees may levy an annual tax of ~~not more than three mills for not exceeding the limitation in subsection 13 of section 57-15-10~~ the purpose of creating and maintaining a city employees' pension plan when such levy is approved at any regular or special city election by an affirmative vote of at least sixty percent of the electors voting on the issue.

*** SECTION 48. AMENDMENT. Section 40-48-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-48-07. Limitations on expenditures of commission - Tax levy authorized. The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the governing body of the municipality. ~~Such~~ The governing body shall provide the funds, equipment, and accommodations necessary for the commission's work. Each municipality which has established a planning commission, in making its annual tax levy ~~and as a part~~

* NOTE: Section 40-46-02 was also amended by section 1 of House Bill No. 1097, chapter 465.

** NOTE: Section 40-46-02.1 was repealed by section 2 of House Bill No. 1097, chapter 465.

*** NOTE: Section 40-48-07 was also amended by section 26 of Senate Bill No. 2071, chapter 593.

thereof, may also levy and collect a tax of not to exceed one mill on the dollar of assessed valuation not exceeding the limitation in subsection 14 of section 57-15-10 in any fiscal year for the purpose of defraying the lawful expenses incurred by the planning commission in carrying out the purposes of this chapter. Provided that any municipality, in order to obtain the funds necessary to initiate or undertake a comprehensive study of the planning requirements of such municipality, may, without regard to any tax limitation herein contained, or otherwise provided by any statute of this state, levy a tax, for a period of not to exceed five successive years, of not more than one mill to raise funds required for such comprehensive study.

SECTION 49. AMENDMENT. Section 40-49-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-49-22. Tax levy for park district employees' pension fund. Any park district adopting the provisions of section 40-49-21 may levy a tax not in excess of the ratio which the total amounts paid to the employees of such city per annum bears to the total amount of taxes levied by such city for such employees' pension fund, which tax levy shall be in addition to all other taxes now authorized by law to be levied by park districts exceeding the limitation in subsection 1 of section 57 of this Act. The proceeds of such the tax levy shall be placed in the employees' pension fund of the city.

* SECTION 50. AMENDMENT. Section 40-57.2-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57.2-04. City or county may make tax levy. Any city or county in this state, after resolution by its governing body that the question be submitted to its electors shall upon the approval thereof of the question at a regular or special election by sixty percent of the qualified electors of such the city or county voting in said regular or special the election may levy a tax of not to exceed one mill upon its net taxable assessed valuation not exceeding the limitations in subsection 16 of section 55 of this Act and subsection 15 of section 57-15-10 for the purpose of providing funds for vocational and on-the-job training services and surveys and otherwise carry out the provision under implementing this chapter. The levy provided for in this section shall be ever and above any tax levy limitations provided by law. No levy for a specific year shall be made if the balance in the fund remaining from levies in prior years is in excess of ten thousand dollars.

** SECTION 51. AMENDMENT. Section 40-59-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-59-01. Two-mill armory or memorial levy. The governing body of any municipality maintaining an armory annually may levy a tax in addition to all levies now authorized by law, and not subject to the mill levy limitations prescribed by law, of not to exceed two mills on the net taxable assessed valuation of all property in the

* NOTE: Section 40-57.2-04 was also amended by section 30 of Senate Bill No. 2071, chapter 593.

** NOTE: Section 40-59-01 was also amended by section 31 of Senate Bill No. 2071, chapter 593.

~~municipality~~ not exceeding the limitation in subsection 16 of section 57-15-10 for armory or memorial hall maintenance, repair, alteration, and reconstruction.

A municipality ~~shall in no case~~ may not levy such tax, unless the governing body of the municipality shall have submitted to the voters of the municipality according to the procedure set forth in this chapter, the question of levying a tax for the purposes authorized by this statute, ~~not to exceed two mills on the dollar in any one year upon the assessed valuation of all property in the municipality.~~ Then, ~~if~~ If the majority of the electors voting on the question approved such levy, there shall be levied, spread and collected such tax as other taxes are collected in and for such municipality.

SECTION 52. AMENDMENT. Section 49-17.2-21 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-17.2-21. Annual certification of tax levy for authority - Levy of tax - Collection. An authority may certify annually to the governing bodies the amount of tax to be levied by said governing bodies for railroad purposes. Each subdivision shall levy the amount certified, pursuant to provisions of law authorizing political subdivisions of this state to levy property taxes. The levy may not exceed the maximum levy permitted by section ~~49-17.2-23~~ 59 of this Act. Each subdivision shall collect the taxes certified by a railroad authority in the same manner as other taxes are levied and collected and shall pay the revenues to the railroad authority.

SECTION 53. AMENDMENT. Section 49-17.2-23 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-17.2-23. Maximum tax levy - County levy not applied in subdivision making levy. In subdivisions which are parties to an agreement creating a regional railroad authority, a levy, ~~in addition to all other levies authorized by law, not to exceed four mills on the taxable valuation of property in such subdivisions, not exceeding the limitation in section 59 of this Act~~ may be made for such purposes. A county levy pursuant to section 49-17.2-21 shall not apply to any other subdivision within that county making a levy under section 49-17.2-21.

* SECTION 54. AMENDMENT. Subsection 3 of section 52-09-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The political subdivision, except a multidistrict special education board and a center board of a multidistrict vocational education center, ~~is hereby authorized and directed to shall~~ levy a tax sufficient to meet its obligations under the provisions of this chapter, and, in the case of a school district, to provide that district's

* NOTE: Section 52-09-08(3) was also amended by section 14 of Senate Bill No. 2047, chapter 608, and section 32 of Senate Bill No. 2071, chapter 593.

share of contribution to the old-age survivors' fund for contracted employees of a multidistrict special education board, up to a maximum levy of forty mills on each dollar of the net assessed taxable valuation of the political subdivision, over and above any levy limitations now prescribed by law for such political subdivisions not exceeding the limitation in section 59 of this Act. Any obligations under this chapter over and above the amount raised by the maximum levy permitted in this section shall be paid out of the general fund of the political subdivision.

SECTION 55. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Additional levies - Exceptions to tax levy limitations in counties. The tax levy limitations specified in section 57-15-06 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the county:

1. Counties supporting airports or airport authorities may levy a tax not exceeding four mills in accordance with section 2-06-15.
2. Counties levying an additional tax as provided in section 4-02-27.2 may levy a tax not exceeding two mills for a period of not to exceed ten years.
3. Counties levying a tax for the purchase or lease price of land according to section 4-02-32 may levy a tax not exceeding one-half mill.
4. Counties levying a tax for county agent work as provided in section 4-08-15 may levy a tax not exceeding one mill.
5. Counties levying a tax for county agent work as provided for in section 4-08-15.1 may levy a tax not exceeding one mill.
6. Counties levying a tax for gopher, rabbit, and crow destruction as provided in section 4-16-02 may levy a tax not exceeding one-half of one mill.
7. Counties levying a tax for payment of a judgment obtained by the state or a state agency against the county in accordance with section 11-11-46 may levy a tax not exceeding one mill.
8. Counties levying a tax for historical works in accordance with section 11-11-53 may levy a tax not exceeding one quarter of one mill, except that if sixty percent of the qualified electors voting on the question of an increase

- levy as provided in section 11-11-53 shall approve, a tax may be levied not exceeding three quarters of one mill.
9. A county levying a tax for a booster station in accordance with section 11-11-60 may levy a tax not exceeding two mills.
 10. A county levying a tax to pay expenses of the board of county park commissioners in accordance with section 11-28-06 may levy a tax not exceeding one mill.
 11. A county levying a tax in aid of a junior college or off-campus educational center of a state-supported institution of higher education in accordance with section 15-18-05 may, upon approval of the electors of such county at a countywide election, levy a tax not exceeding five mills.
 12. A county levying a tax for a county or community hospital association as provided in section 23-18-01 may levy a tax for not more than five years not exceeding eight mills in any one year or, in the alternative, for not more than fifteen years at a mill rate not exceeding five mills.
 13. A county levying a tax for a nursing home authority in accordance with section 23-18.2-12 may levy a tax not exceeding five mills.
 14. A county levying a tax for county roads as provided in section 24-05-01 may levy a tax not exceeding five mills if approved as provided in that section.
 15. A county levying a tax to establish and maintain a public library service as provided in section 40-38-02 may levy a tax not exceeding four mills.
 16. A county levying a tax to provide for vocational and on-the-job training services as provided in section 40-57.2-04 may levy a tax not exceeding one mill.
 17. A county levying a tax for farm to market and federal aid roads as provided in section 57-15-06.3 may levy a tax not exceeding fifteen mills as provided in that section.
 18. A county levying a tax for county veterans service officers salary, traveling, and office expenses in accordance with section 57-15-06.4 may levy a tax not exceeding one and one-fourth mills.
 19. A county levying a tax for planning purposes as provided in section 57-15-06.5 may levy a tax not exceeding three mills.

20. A county levying a tax for advertising purposes as provided in section 57-15-10.1 may levy a tax not exceeding one-half mill.
21. A county levying a tax for abandoned cemetery maintenance as provided in section 57-15-27.2 may levy a tax not exceeding one-tenth of one mill.
22. A county levying a tax for emergency purposes as provided in section 57-15-28 may levy a tax not exceeding one mill.
23. A county levying a tax for county ambulance service according to section 57-15-50 may levy a tax not exceeding five mills.
24. A county levying a tax for destruction of weeds along highways as provided in section 57-15-54 may levy a tax not exceeding two mills.
25. A county levying a tax for programs and activities for senior citizens according to section 57-15-56 may levy a tax not exceeding one mill.
26. A county levying a tax for county welfare in accordance with section 57-15-57 may levy a tax not exceeding two mills.
27. A county levying a tax to repay a loan from the Bank of North Dakota according to section 57-47-04 may levy a tax not to exceed three mills.
28. Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

SECTION 56. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Exceptions to tax levy limitations in townships. The tax levy limitations specified in section 57-15-20 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the township:

1. A township levying a tax for prevention and extinguishment of fires in accordance with section 18-06-10 may levy a tax not exceeding one mill.
2. A township levying a tax to establish a recreation system according to section 40-55-08 may levy a tax not exceeding two and five-tenths mills, except that a township may levy an amount not exceeding eight and five-tenths mills if the provisions of section 40-55-09 are met.

3. A township levying a tax for the purpose of cooperating with the county in constructing and maintaining federal aid farm to market roads in accordance with section 57-15-19.4 may levy a tax not exceeding five mills.
4. A township levying a tax for law enforcement in accordance with section 57-15-19.5 may levy a tax not exceeding five mills.
5. A township levying a tax for mowing or snow removal equipment in accordance with section 57-15-19.6 may levy a tax not exceeding three mills.
6. A township levying a tax for airport purposes in accordance with section 57-15-37.1 may levy a tax not exceeding four mills.
7. A township levying a tax for ambulance service in accordance with section 57-15-51.1 may levy a tax not exceeding five mills.
8. A township levying a tax for park purposes in accordance with section 58-17-02 may levy a tax not exceeding two mills.
9. Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

SECTION 57. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Exceptions to tax levy limitations in park districts. The tax levy limitations specified in section 57-15-12 do not apply to the following mill levies, expressed in mills per dollar of taxable valuation of property in a park district:

1. A park district levying a tax for employees pension fund according to sections 40-49-21 and 40-49-22 may levy a tax not exceeding the ratio which the total amounts paid to the employees of the city per annum bears to the total amount of taxes levied by the city for such employees pension fund.
2. A park district levying a tax to establish a public recreation system in accordance with section 40-55-09 may levy a tax not exceeding two and five-tenths mills, or not more than eight and five-tenths mills if authorized as provided in section 40-55-09.

3. A park district may levy a tax providing for forestry activities in accordance with section 57-15-12.1 in an amount not exceeding five mills.
4. A park district levying a tax for airport purposes in accordance with section 57-15-37 may levy a tax not exceeding four mills.
5. Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

SECTION 58. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Limitations in vector control districts. Vector control district levies are limited to a tax levy not exceeding one mill on the dollar of taxable valuation in the district in accordance with sections 23-24-08 and 23-24-09.

SECTION 59. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Exceptions to tax levy limitations in political subdivisions. The tax levy limitations specified by law do not apply to the following mill levies, expressed in mills per dollar of taxable valuation of property in the political subdivision. For purposes of this section "political subdivision" has the same meaning as in section 32-12.1-02.

1. A political subdivision levying a tax for the control of pests in accordance with section 4-33-11 may levy a tax not exceeding one mill.
2. A political subdivision levying a tax for an insurance reserve fund according to section 32-12.1-08 may levy a tax not exceeding five mills.
3. A political subdivision levying a tax for the payment of a judgment in accordance with section 32-12.1-11 may levy a tax not exceeding five mills.
4. A political subdivision levying a tax for railroad purposes in accordance with section 49-17.2-21 may levy a tax not exceeding four mills.
5. A political subdivision levying a tax for old age and survivors' insurance according to section 52-09-08 may levy a tax not exceeding forty mills.

Additionally, tax levy limitations do not apply to taxes levied pursuant to any statute which expressly provides that the taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

SECTION 60. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

General tax levy of recreation service districts. The board of recreation service district commissioners of a recreation service district created under chapter 11-28.2 may, upon resolution of the board, levy a tax for general purposes in addition to all other levies permitted by law, not exceeding one mill on the taxable valuation of property in the district.

SECTION 61. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

General tax levy of rural ambulance service districts. A rural ambulance service district may levy, in accordance with chapter 11-28.3, a tax not exceeding five mills on the taxable value of property within the district.

SECTION 62. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

General tax levy of fire protection districts. A rural fire protection district may levy a tax in accordance with chapter 18-10 not exceeding five mills on the taxable valuation of property in the district except upon resolution adopted by the board of directors after receipt of a petition by not less than twenty percent of the electors residing within the district, the levy may be made in an amount not exceeding ten mills.

SECTION 63. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

General tax levy of hospital districts. The board of directors of a hospital district may annually certify to the proper county auditor or county auditors, the probable expense for operating the hospital district. The auditor or auditors may levy a tax not exceeding five mills on the taxable valuation of property within the district for the maintenance of the district for the fiscal year as provided in section 23-30-07.

SECTION 64. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Water resource district's general tax levy. The board of directors of a water resource district shall estimate expenses of the district and transmit them to the board of county commissioners according to section 61-16.1-06. The board of county commissioners may, by resolution, levy and authorize the county auditor to extend upon the county or portion of the county in the district a tax not exceeding four mills on each dollar of taxable valuation in the county or portion of the county in the district.

SECTION 65. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

West river water supply district general tax levy. The board of directors of the west river water supply district may determine a mill levy for each governmental entity within the district. The mill levy may be computed in accordance with section 61-24.2-08, but the mill levy for any governmental entity may not exceed one mill.

SECTION 66. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Garrison Diversion Conservancy District general tax levy. The board of directors of the Garrison Diversion Conservancy District may levy a tax not exceeding one mill on the taxable valuation of property within the district according to sections 61-24-08 and 61-24-09.

SECTION 67. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

County tax levies and limitations not in addition to the general fund levy. The following mill levies, expressed as mills on the dollar of taxable valuation of property within the county, may be levied by counties but are not excepted from the general mill levy limitations of section 57-15-06:

1. Counties levying a tax for county fairs according to section 4-02-26 may levy a tax not exceeding one-half of one mill.
2. Counties levying a tax according to section 4-02-27 for a county fair association may levy a tax not exceeding one-fourth of one mill.
3. Counties levying a tax in accordance with section 4-02-27.1 for a county fair association may levy a tax not exceeding one-half mill.
4. Counties levying a tax for multicounty fairs according to section 4-02-37 may levy a tax not exceeding one-half of one mill.

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5. Counties levying a tax for extraordinary expenditures according to section 11-11-24 may levy a tax not exceeding three mills.
6. Counties levying a tax to establish firebreaks according to section 18-07-01 may levy a tax not exceeding five mills.
7. Counties levying a tax for regional or county corrections centers according to section 57-15-06.6 may levy a tax not exceeding five mills.
8. Tax levy or mill levy limitations' do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

* SECTION 68. AMENDMENT. Subsection 3 of section 57-15-06 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The twenty-three-mill limitation shall apply to all tax levies which the county is authorized to levy for general and special county purposes, including taxes levied for road and bridge purposes. Any unexpended balance in the county road fund at the end of the fiscal year may be transferred to a special road fund, except that such special fund shall never exceed the amount a ten-mill levy on the assessed taxable valuation of the county would yield, and the balance in said fund shall not be considered in determining the budget or the amount that may be levied. Such mill limitation shall not apply-
 - a- To tax levies made for the purpose of paying the principal interest on any obligations of the county evidenced by the issuance of bonds-
 - b- Repealed by S-L- 1981, ch- 198, § 18-
 - c- To taxes levied for the purpose of combating gophers pursuant to section 4-16-02-
 - d- To taxes levied pursuant to any statute which expressly provides that the taxes authorized to be levied therein shall not be subject to the twenty-three-mill limitations for general and special county purposes-
 - e- To taxes levied for the purpose of establishing and maintaining a library fund for public library services-
 - f- To taxes levied for road and bridge purposes pursuant to the election provisions of section 24-05-01-

* NOTE: Section 57-15-06 was also amended by section 42 of Senate Bill No. 2071, chapter 593.

g- To taxes levied for the purpose of constructing, equipping, operating, and maintaining regional or county corrections centers to the levies in section 55 of this Act.

* SECTION 69. AMENDMENT. Subsection 1 of section 57-15-06.3 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The board of county commissioners of any county in this state may prepare a proposed county construction program of farm to market and federal aid roads on the county road system, setting forth a general description of the roads to be constructed, the location of bridges constituting a part of the program, the approximate total mileage, and the priority of construction. After approval of the program by the state highway department and the federal highway administration, the board may submit the program to the electors of the county with the question of levying a tax of not to exceed fifteen mills upon the net taxable assessed valuation of all property in the county not exceeding the limitation in subsection 17 of section 55 of this Act for the completion of the program by matching, from the proceeds of the tax, federal funds available for federal aid, secondary and feeder roads, farm to market roads, and all roads as provided for under federal aid highway Acts. If the majority of the electors voting on the question approved the program and levy, the board shall levy a tax not in excess of fifteen mills. ~~The levy shall not be subject to the county mill levy limitations.~~ The proceeds of the tax shall be used, except as provided in this section, only for matching federal aid available for the program which shall be the official county road program.

** SECTION 70. AMENDMENT. Section 57-15-06.4 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.4. Levy authorized for county veterans' service officer's salary, traveling, and office expenses. The county commissioners of each county may levy annually a tax of not to exceed one and one-fourths mills on the dollar of the net assessed taxable valuation of the county, not exceeding the limitation in subsection 18 of section 55 of this Act to provide a fund, for the payment of the salary, traveling, and office expenses of the county veterans' service officer authorized to be appointed by section 37-14-18. ~~Such levy shall not be limited by the provisions of section 57-15-06-~~

*** SECTION 71. AMENDMENT. Section 57-15-06.5 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE: Section 57-15-06.3(1) was also amended by section 43 of Senate Bill No. 2071, chapter 593.
- ** NOTE: Section 57-15-06.4 was also amended by section 44 of Senate Bill No. 2071, chapter 593.
- *** NOTE: Section 57-15-06.5 was also amended by section 45 of Senate Bill No. 2071, chapter 593.

57-15-06.5. Tax levy for planning purposes. The board of county commissioners, when authorized ~~to do so~~ by sixty percent of the electors voting upon the question in a regular or special election called by the county commissioners, may levy ~~up to three mills on the net taxable assessed valuation for planning purposes.~~ Such levy shall be in addition to and ~~not restricted by any levy limitations prescribed by law~~ a tax not exceeding the limitation in subsection 19 of section 55 of this Act. The proceeds of a levy pursuant to this section shall be used only for county planning purposes, and shall not be used to directly fund a regional planning council. However, proceeds of a levy pursuant to this section may be used by the levying county to enter into a contract with a regional planning council for single county planning services for the levying county.

* SECTION 72. AMENDMENT. Section 57-15-06.6 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.6. Levy authorized for regional or county corrections centers. The board of county commissioners of each county may levy an annual tax ~~of not to exceed five mills on the net taxable assessed valuation of the county~~ not exceeding the limitation in subsection 7 of section 67 of this Act for the purpose of constructing, equipping, operating, and maintaining regional or county corrections centers.

** SECTION 73. AMENDMENT. Section 57-15-10 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-10. Exceptions to tax levy limitations in cities. The tax levy limitations specified in section 57-15-08 shall not apply to the following ~~items~~ tax levies:

1. Taxes levied pursuant to law for a proportion of the cost of a special improvement project by general taxation.
2. Taxes levied pursuant to law for the purpose of paying a deficiency in connection with a special improvement project.
3. Taxes levied to pay interest on a bonded debt, or the principal of such debt, at maturity.
4. Taxes levied for the purpose of paying any final judgment or judgments obtained against any city, if the aggregate amount levied for the purpose of paying any final judgment or judgments shall not exceed such amount as will be produced by a levy of five mills on the ~~net taxable assessed~~ valuation of the property in ~~such the~~ city. This section shall not be deemed or construed to modify, qualify, or limit the authority of any city to issue bonds pursuant to law in case the governing body of any such

* NOTE: Section 57-15-06.6 was also amended by section 46 of Senate Bill No. 2071, chapter 593.

** NOTE: Section 57-15-10(4) was also amended by section 48 of Senate Bill No. 2071, chapter 593.

- city shall not deem it advisable to pay such judgment or judgments out of current revenues.
5. Taxes, not exceeding four mills, levied for the purpose of establishing and maintaining a library fund for public library services in accordance with section 40-38-02.
 6. Taxes levied on property located within a municipality and otherwise exempt under the provisions of section 57-02-08, to pay such property's proportionate share of the cost of fire protection services maintained by the municipal corporation.
 7. Taxes, not exceeding five mills, levied for the purpose of establishing and maintaining a municipal arts council in accordance with section 40-38.1-02.
 8. Taxes levied for fire department stations in accordance with section 40-05-09.1 may be levied in an amount not exceeding five mills.
 9. Taxes levied for the purpose of fire protection service in accordance with section 40-05-09.2 may be levied in an amount not exceeding fifteen mills.
 10. Taxes levied for a policemen's pension fund in accordance with section 40-45-01 may be levied in an amount not exceeding one mill.
 11. Taxes levied for a police retirement system based upon actuarial tables in accordance with section 40-45-02 may be levied in an amount not exceeding three mills.
 12. Taxes levied for a city employees' pension fund in accordance with section 40-46-02 may be levied in an amount not exceeding five mills.
 13. Taxes levied for a city employees' pension plan in a city which has not adopted a civil service system may be levied in accordance with section 40-46-02.1 in an amount not exceeding three mills.
 14. Taxes levied for expenditures of the planning commission in accordance with section 40-48-07 may be levied in an amount not to exceed one mill. Provided, that any municipality, in order to obtain the funds necessary to initiate or undertake a comprehensive study of the planning requirements of the municipality, may, without regard to any tax limitation provided by law, levy a tax, for a period of not to exceed five successive years, of not more than one mill to raise funds required for comprehensive study.

15. Taxes levied for the purpose of vocational and on-the-job training services in accordance with section 40-57.2-04 may be levied in an amount not exceeding one mill.
16. Taxes levied for the purpose of an armory or memorial levy in accordance with section 40-59-01 may be levied in an amount not exceeding two mills.
17. Taxes levied for advertising purposes in accordance with section 57-15-10.1 may be levied in an amount not exceeding one mill.
18. Taxes levied for airport purposes in accordance with section 57-15-36 may be levied in an amount not exceeding four mills.
19. Taxes levied for a construction fund in accordance with section 57-15-38 may be levied in an amount not exceeding five mills.
20. Taxes levied for a city fire department reserve fund pursuant to section 57-15-42 may be levied in an amount not exceeding five mills.
21. Taxes levied for an organized firemen's relief association in accordance with section 57-15-43 may be levied in an amount not exceeding one-half of one mill.
22. Taxes levied for acquiring real estate for a public building pursuant to section 57-15-44 may be levied in an amount not exceeding two mills.
23. Taxes levied for emergency purposes pursuant to section 57-15-48 may be levied in an amount not exceeding one mill.
24. Taxes levied for police department stations according to section 57-15-53 may be levied in an amount not exceeding two mills.
25. Taxes levied for public transportation in accordance with section 57-15-55 may be levied in an amount not exceeding five mills.
26. Taxes levied for programs and activities for senior citizens in accordance with section 57-15-56 may be levied in an amount not exceeding one mill.

* SECTION 74. AMENDMENT. Section 57-15-10.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-10.1. Counties and cities may levy for certain advertising purposes. The board of county commissioners of any county, or the

* NOTE: Section 57-15-10.1 was also amended by section 49 of Senate Bill No. 2071, chapter 593.

governing body of any city may annually levy a tax for the purpose of advertising the resources and opportunities in the county or city as the case may be and promoting the industrial development thereof. The tax shall not exceed the amount produced by the levy of one-half mill on a dollar of the net taxable valuation of the county or by the levy of one mill on a dollar of the net taxable valuation of the city as the case may be limitations in subsection 20 of section 55 of this Act and subsection 17 of section 57-15-10.

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

* SECTION 75. AMENDMENT. Section 57-15-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-15. Exceptions to tax levy limitations in school districts. The tax levy limitations specified in section 57-15-14 shall not apply to the following items tax levies:

1. Taxes levied for the purpose of paying interest on a bonded debt of the district, or levies made to pay and discharge the principal thereof at maturity.
2. Taxes levied for the purpose of paying any final judgment or judgments obtained against the school district, if the aggregate amount levied for the purpose of paying such judgment shall not exceed such amount as will be produced by a levy of five mills on the net taxable assessed valuation of property in the district. This section shall not be deemed or construed to modify, qualify, or limit the authority of any school district to issue bonds pursuant to law in case the governing body of such school district shall not deem it advisable to pay such judgment out of current revenues.
3. Taxes levied for off-campus educational facilities as provided in section 15-18-04.2 may be levied in an amount not exceeding eight mills. If it is found, after the board by resolution has levied its maximum eight mills, that additional funds are needed, the board may submit the question of an additional mill levy not to exceed eight mills, to the electors of the district at any regular or special school election within the district. If approved by sixty percent of the electors voting, the school board may proceed with the levy and collection of the tax. In no case shall the total mills levied under this section exceed sixteen. The proceeds shall be placed in a separate fund, accounted for separately, and used exclusively for the support, operation, and maintenance of an off-campus educational center. Expenditures may be made by the school board without going through the

* NOTE: Section 57-15-15 was amended by section 53 of Senate Bill No. 2071, chapter 593, and repealed by section 22 of Senate Bill No. 2047, chapter 608.

- institution of higher education with whom an agreement has been entered.
4. Taxes levied for vocational education programs in accordance with section 15-20.1-08 may be levied in an amount not exceeding ten mills for the purpose of participating in cooperative vocational education programs approved by the state board. A school district levying a tax for the purpose of maintaining a vocational education program only for that school district and approved by the state board may levy a tax not exceeding five mills.
 5. Taxes levied for board and lodging of high school students in accordance with section 15-34.2-06 may be levied in an amount not exceeding five mills.
 6. Taxes levied for teachers' retirement in accordance with section 15-39.1-28 may be levied in amounts not exceeding forty mills.
 7. Taxes levied for equalization between school districts in accordance with section 15-47-21 may be levied in an amount as provided in that section and not more than fifteen mills of the levy shall be extended against the taxable property in any one year, and the levy, not exceeding fifteen mills on the dollar, shall be extended from year to year until the whole amount has been levied.
 8. Taxes levied for special education programs in accordance with section 15-59-08 may be levied in an amount not exceeding ten mills.
 9. Taxes levied for the purpose of paying the principal and interest on bonds issued pursuant to subsection 4.1 of section 21-03-06 may be levied in an amount not exceeding two mills.
 10. Taxes levied for rental of property pursuant to section 57-15-18.1 may be levied in an amount not exceeding five mills.
 11. Taxes levied for unemployment compensation benefits pursuant to section 57-15-18.2 may be levied in an amount not exceeding two mills.
 12. Taxes levied for a school library fund pursuant to section 57-15-49 may be levied in an amount not exceeding two mills.
 13. Taxes levied for two-way radios for schoolbuses pursuant to section 57-15-52 may be levied in an amount not exceeding one mill.

14. Taxes levied for schoolbus costs in accordance with section 57-15-52.1 may be levied in an amount not exceeding five mills.

15. Taxes levied pursuant to section 57-16-02.

16. Taxes levied pursuant to section 57-19-04 may be levied in an amount not exceeding three mills.

* SECTION 76. AMENDMENT. Section 57-15-18.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-18.1. Tax levy for rental of property. Any school district upon approval by its governing board may levy taxes annually, not in excess of five mills on the net taxable assessed valuation of the district exceeding the limitation in subsection 10 of section 57-15-15, for the rental or leasing of buildings, property, or classroom space. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law. Minimum state standards for health and safety applicable to school building construction shall apply to any rented or leased buildings, property, or classroom space.

** SECTION 77. AMENDMENT. Section 57-15-18.2 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-18.2. School district levy for unemployment compensation benefits. The school board of any school district, upon the passage of a proper resolution, may levy a tax of not to exceed two mills on the net taxable assessed valuation of the school district not exceeding the limitation in subsection 11 of section 57-15-15 for the purpose of covering the cost of unemployment compensation benefits. The mill levy authorized by this section shall be in addition to any mill levy limitations provided by law.

*** SECTION 78. AMENDMENT. Section 57-15-19.4 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-19.4. Township five-mill levy for roads.

1. The electors of each township shall have power at the annual meeting to may levy a tax not over five mills on the dollar of the net taxable assessed valuation to exceed the limitation in subsection 3 of section 56 of this Act for the purpose of cooperating with the county in constructing and maintaining federal aid farm to market roads within such the township. The This tax levy provided herein shall be over and above the limitations specified in section 57-15-20 and shall be made only if notice of the question of the approval of such levy has

* NOTE: Section 57-15-18.1 was also amended by section 54 of Senate Bill No. 2071, chapter 593, and repealed by section 22 of Senate Bill No. 2047, chapter 608.

** NOTE: Section 57-15-18.2 was also amended by section 55 of Senate Bill No. 2071, chapter 593, and repealed by section 22 of Senate Bill No. 2047, chapter 608.

*** NOTE: Section 57-15-19.4(1) was also amended by section 56 of Senate Bill No. 2071, chapter 593.

been included with or upon the notice of the annual meeting provided for in section 58-04-01.

2. ~~In the event that~~ If no federal aid farm to market roads are built within ten years of the date the first mill levy pursuant to subsection 1 was made, the board of township supervisors may by resolution authorize the expenditure of all such funds collected and accumulated and the earnings thereon for the construction, improvement, or maintenance of other roads or for any other township purpose.

* SECTION 79. AMENDMENT. Section 57-15-19.5 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-19.5. Township levy for law enforcement - Authorization - Cooperation with other political subdivisions. The electors of an organized township may authorize the levy of an amount not ~~to exceed five mills on the dollar of the net taxable assessed valuation exceeding the limitation in subsection 4 of section 56 of this Act for the purpose of hiring law enforcement personnel.~~ Such authorization shall be granted upon a favorable vote of sixty percent of the electors present and voting on the question at the general election immediately succeeding the annual township meeting, provided the question has been included in the annual meeting notice issued by the township clerk pursuant to section 58-04-01. ~~The mill levy authorized by this section shall not be subject to the mill levy limitation imposed by section 57-15-20.~~ In providing for law enforcement services, the board of supervisors may cooperate with one or more additional townships, with a city, or with the county in accordance with the provisions of section 54-40-08.

** SECTION 80. AMENDMENT. Section 57-15-19.6 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-19.6. Township levy for mowing or snow removal equipment. The electors of each township ~~shall have power at the annual meeting to~~ may levy not more than three mills on the dollar of the net taxable assessed valuation of taxable property in the township ~~exceeding the limitation in subsection 5 of section 56 of this Act for the purpose of buying and operating mowing or snow removal equipment.~~ ~~The This tax levy provided herein shall be ever and above the limitations specified in section 57-15-20 and shall be made only if notice of the question of the approval of such levy has been included with or upon the notice of the annual meeting provided for in section 58-04-01.~~

*** SECTION 81. AMENDMENT. Section 57-15-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-28. Emergency fund - County. The governing body of any county may levy a tax for emergency purposes ~~which shall not exceed the amount produced by the levy of one mill on the dollar of the net~~

* NOTE: Section 57-15-19.5 was also amended by section 57 of Senate Bill No. 2071, chapter 593.

** NOTE: Section 57-15-19.6 was also amended by section 58 of Senate Bill No. 2071, chapter 593.

*** NOTE: Section 57-15-28 was also amended by section 63 of Senate Bill No. 2071, chapter 593.

taxable valuation of the county not exceeding the limitation in subsection 22 of section 55 of this Act. Such ~~The~~ emergency fund and the sums therein shall not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes, but shall be shown in ~~such the~~ budget as an "emergency fund" and shall not be deducted from the budget as otherwise provided by law. Each county may create an emergency fund, and all taxes levied for emergency purposes by any county, when collected, shall be covered ~~into such~~ deposited in the emergency fund, and shall be used only for emergency purposes caused by the destruction or impairment of any county property necessary for the conduct of the affairs of the county, emergencies caused by nature or by the entry by a court of competent jurisdiction of a judgment for damages against the county. The emergency fund shall not be used for any road construction or maintenance, except for repair of roads damaged by nature within sixty days preceding such determination to expend emergency funds, or for the purchase of road equipment. Any unexpended balance, remaining in the emergency fund at the end of any fiscal year, shall be kept in such fund. When the amount of money in the emergency fund, plus the amount of money due the fund from outstanding taxes, shall equal the amount produced by a levy of five mills on the taxable valuation, the levy of ~~one mill for~~ emergency purposes authorized by this section shall be discontinued, and no further levy shall be made ~~for this purpose~~ until another levy of one mill or less is required to replenish the emergency fund.

* SECTION 82. AMENDMENT. Section 57-15-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-36. Tax levy for airport purposes. In cities supporting airports for which no levy has been made by a park board or other taxing district within the corporate limits of such city, a levy in addition to all other levies permitted by law, not to exceed four mills on the net taxable valuation of property in such city not exceeding the limitation in subsection 18 of section 57-15-10, may be made for such purposes.

** SECTION 83. AMENDMENT. Section 57-15-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-37. Tax levy for airport purposes in park districts. In park districts supporting airports, a levy in addition to all other levies permitted by law but not to exceed four mills on the net taxable assessed valuation of property in such park district not exceeding the limitation in subsection 4 of section 57 of this Act may be made for such purpose; provided, however, that said the levy may be made by not more than one of the said political subdivisions in any one taxing district.

*** SECTION 84. AMENDMENT. Section 57-15-37.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 57-15-36 was also amended by section 64 of Senate Bill No. 2071, chapter 593.

** NOTE: Section 57-15-37 was also amended by section 65 of Senate Bill No. 2071, chapter 593.

*** NOTE: Section 57-15-37.1 was also amended by section 66 of Senate Bill No. 2071, chapter 593.

57-15-37.1. Township levy for airport purposes. The electors of each township may vote at the annual meeting to levy a tax for the purpose of supporting an airport or an airport authority in an amount not exceeding ~~four mills on the net assessed taxable valuation of the township, which levy shall be in addition to any mill levy limitations provided by law~~ the limitation in subsection 6 of section 56 of this Act. The ~~mill tax~~ levy provided in this section shall not apply to any city, park district, or other taxing district that already has an airport levy.

SECTION 85. AMENDMENT. Section 57-15-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-38. Tax levy for construction fund in cities. The governing body of any city may levy ~~taxes~~ annually for a period not to exceed ten successive years, for a construction fund, ~~a tax not in excess of five mills, which levy shall be in addition to and not restricted by the levy limitations prescribed by law exceeding the limitation in subsection 19 of section 57-15-10, when authorized to do so by sixty percent of the electors voting upon the question at a regular or special election in any city which, at the time of making the annual levy, has no outstanding unpaid certificates of indebtedness, and in which the limitation of levy has not been increased from the basic mill rate.~~ ~~Such~~ The construction fund shall be used for paying all or part of the construction of waterworks systems, sewage systems, public buildings, or any other public improvements for which cities are authorized by law to pay for from general tax levies, and the governing body of any city, when submitting to the electors of the city, the question of authorizing the ~~afesaid~~ tax levy, shall specify the purposes for which ~~said~~ the construction fund is to be used. The governing body of ~~such~~ the city may create ~~such~~ the building fund by appropriating and setting up in its budget, for ~~such~~ an amount not in excess of twenty percent of the current annual appropriation for all other purposes combined, exclusive of the appropriations to pay interest and principal of the bonded debt, and not in excess of the limitations prescribed by law.

* SECTION 86. AMENDMENT. Section 57-15-42 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-42. City fire department reserve fund levy. The governing body of any city, when authorized ~~to do so~~ by sixty percent of the electors voting on the question in a regular or special election called by the governing body, may levy taxes annually, ~~not in excess of five mills on the net taxable assessed valuation, exceeding the limitation in subsection 20 of section 57-15-10 for a fire department building or equipment reserve fund. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law.~~ The proceeds of ~~such~~ the levy shall be placed in a separate fund known as the fire department reserve fund and shall be used ~~solely and exclusively~~ for the purchase of necessary firefighting equipment or ~~fire department building therefor~~. No levy shall be made under this section during any period in which the moneys in the

* NOTE: Section 57-15-42 was also amended by section 67 of Senate Bill No. 2071, chapter 593.

fund equal or exceed an amount equal to the sum that would be produced by a levy of thirty mills upon the net taxable assessed valuation of the city making such levy.

SECTION 87. AMENDMENT. Section 57-15-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-43. Tax levy for city having an organized firemen's relief association - Limitations - Disbursement. In addition to any other levies authorized by law for general purposes, any Any city having an organized firemen's relief association as provided for under chapter 18-05, may levy an annual tax of not more than one half of one mill upon its taxable valuation not exceeding the limitation in subsection 21 of section 57-15-10 for the purpose of assisting such firemen's relief association in providing for the pension and relief provided for by such association.

On the last day of June and December of each year, the treasurer auditor of any municipality covered by this section shall deliver and turn over to the treasurer of any such firemen's relief association, having qualified as provided for in chapter 18-05, all moneys collected under the provisions of this section.

SECTION 88. AMENDMENT. Section 57-15-44 of the 1981 Supplement to 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, exceeding the limitation in subsection 22 of section 57-15-10 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. The tax is to be levied, spread, and collected in the same manner as are other taxes in and for such the city. Whether said the 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 the petition to be filed not less than sixty days before said the election. If the majority of electors vote that said to discontinue the levy shall not continue, it may not again be levied without a majority vote of the electors at a later regular election on the question of relieving the tax, which question may be submitted upon petition of electors as above provided for or by decision of the governing board.

* SECTION 89. AMENDMENT. Section 57-15-48 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-48. Tax levy for emergency purposes. The governing body of any municipal corporation city by a two-thirds vote may levy a tax

* NOTE: Section 57-15-48 was also amended by section 68 of Senate Bill No. 2071, chapter 593.

annually for snow removal, natural disaster, or other emergency conditions not in excess of one mill on the net taxable assessed valuation of property within such municipal corporation, which levy shall be in addition to and not restricted by the levy limitations prescribed by law exceeding the limitation in subsection 23 of section 57-15-10. No city shall make such this levy after the amount of the unexpended funds raised by such this levy shall equal equals three dollars per capita within the city.

* SECTION 90. AMENDMENT. Section 57-15-49 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-49. School district levy for school library fund. The school board of any school district, upon the passage of a resolution, may submit the question at the next regularly scheduled or special election in the school district of providing for an annual levy of not in excess of two mills not exceeding the limitation in subsection 12 of section 57-15-15 for a school library fund. If the question submitted is approved by a majority of the electors voting thereon, the school board shall proceed to make such the levy, which levy shall be ever and above any mill levy limitations provided by law. Upon approval of the levy for the school library fund, the school board shall create a school library fund and establish a budget for expenditures from such the fund. The fund shall be kept separate and apart from other funds of the school district and shall be used exclusively for the maintenance of the school library services. Such This levy may be discontinued upon the passage of a resolution by the school board, or if a petition signed by not less than twenty-five electors or five percent of the electors of the school district as indicated by the number of persons voting at the last school district election, whichever is greater, is presented to the school board, the question of discontinuance of the levy shall be submitted to the electors of the school district at any regular or special school district election. If a majority of the electors of the school district vote in favor of discontinuing the levy, such the levy shall not be included in the next budget submitted by the school district.

** SECTION 91. AMENDMENT. Section 57-15-50 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-50. Levy authorized for county ambulance service. Upon petition of ten percent of the number of qualified electors of the county voting in the last election for governor or upon its own motion, the board of county commissioners of each county shall levy annually a tax of not to exceed five mills on the net taxable assessed valuation of the county not exceeding the limitation in subsection 23 of section 55 of this Act, for the purpose of subsidizing county ambulance services, provided that such this tax shall be approved by a majority of the voters of the county at a regular or special countywide election. The mill levy provided by this section shall not be subject to the mill levy limitations for general and special county purposes contained in section 57-15-06-

* NOTE: Section 57-15-49 was repealed by section 22 of Senate Bill No. 2047, chapter 608.

** NOTE: Section 57-15-50 was also amended by section 69 of Senate Bill No. 2071, chapter 593.

The county may budget, in addition to its annual operating budget for subsidizing ambulance service, no more than ten percent of its annual operating budget as a depreciation expense to be set aside in a dedicated ambulance sinking fund deposited with the treasurer for the replacement of equipment and ambulances. The ten percent ambulance sinking fund shall be in addition to the annual operating budget for subsidization, but the total of the annual operating budget and the annual ten percent ambulance sinking fund shall not exceed the approved mill levy.

* SECTION 92. AMENDMENT. Section 57-15-51.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted 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 approved by the electorate ~~of not to exceed five mills on the net taxable assessed valuation of the township~~ not exceeding the limitation in subsection 7 of section 56 of this Act 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.

** SECTION 93. AMENDMENT. Section 57-15-52 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-52. School district levy to equip and maintain two-way radios for schoolbuses. The school board of any school district, upon the passage of a proper resolution, may submit the question at the next regularly scheduled or special election in the school district of providing for an annual levy ~~of not in excess of one mill~~ not exceeding the limitation in subsection 13 of section 57-15-15 to equip schoolbuses with two-way communications and central station equipment and to provide for the installation and maintenance of such equipment. If the question submitted is approved by a majority of the electors voting thereon, the school board shall proceed to make such the levy, which levy shall be ever and above any mill levy limitations provided by law.

*** SECTION 94. AMENDMENT. Section 57-15-52.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-52.1. School district levy for schoolbus costs. Upon resolution of the school board and approval of sixty percent of the voters in the school district at the next election, a school district may levy an amount ~~not to exceed five mills~~ exceeding the limitation in subsection 14 of section 57-15-15 for the purpose of paying for the cost of purchasing, contracting, operating, and maintaining schoolbuses. Such The levy may be discontinued by resolution of the school board, or if a petition signed by not less than twenty-five

* NOTE: Section 57-15-51.1 was also amended by section 71 of Senate Bill No. 2071, chapter 593.

** NOTE: Section 57-15-52 was repealed by section 22 of Senate Bill No. 2047, chapter 608.

*** NOTE: Section 57-15-52.1 was also amended by section 3 of House Bill No. 1253, chapter 202, and repealed by section 22 of Senate Bill No. 2047, chapter 608.

electors or five percent of the electors of the school district as indicated by the number of persons voting at the last school district election, whichever is greater, is presented to the school board and voted upon and approved by a majority of the voters at the next election. The levy provided in this section shall be ever and above any mill levy limitations provided by law.

* SECTION 95. AMENDMENT. Section 57-15-53 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-53. Tax levy for police department stations. Upon approval of a majority of the electors voting thereon at any regular election or special election called for such purpose, the governing body of any city may levy taxes annually, not in excess of two mills on the net taxable assessed valuation exceeding the limitation in subsection 24 of section 57-15-10, for the purpose of providing additional funds to meet the operational, maintenance, and construction costs of establishing stations for police protection services and correctional facilities. Such levy shall be in addition to and not restricted by the levy prescribed by law. The proceeds of such this levy shall be placed in a separate fund known as the police station and correctional facility fund. No levy shall be made under this section during any period in which the moneys to the fund equal or exceed an amount equal to the sum that would be produced by a levy of ten mills upon the net taxable assessed valuation of the city making such a the levy.

** SECTION 96. AMENDMENT. Section 57-15-54 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-54. Destruction of weeds along highways - Election to be held on question - Mill levy. Upon resolution by the board of county commissioners, or upon petition by ten percent of the number of qualified electors residing in the county or a county commissioner district who voted for governor at the last general election, the board of county commissioners shall submit the question of a tax levy to cover all costs of cutting or otherwise destroying all weeds, plants, or grass growing along all county or township roads in the county or county commissioner district to the qualified electors of the county or county commissioner district at the next countywide general or special election. If a majority of the qualified electors voting thereon shall approve, a tax shall be levied not to exceed the amount produced by a levy of two mills on the dollar of the net assessed taxable valuation of the county or county commissioner district, as the case may be. The levy of two mills authorized by this section shall be ever and above any levy limitations provided by law exceeding the limitation in subsection 24 of section 55 of this Act.

*** SECTION 97. AMENDMENT. Section 57-15-55 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 57-15-53 was also amended by section 72 of Senate Bill No. 2071, chapter 593.

** NOTE: Section 57-15-54 was also amended by section 73 of Senate Bill No. 2071, chapter 593.

*** NOTE: Section 57-15-55 was also amended by section 74 of Senate Bill No. 2071, chapter 593.

57-15-55. Tax levy for public transportation. The governing body of any city, upon approval by a majority vote of the electors of such the city at any citywide election, may annually levy a tax not in excess of five mills on the net taxable assessed valuation of property within such city exceeding the limitation in subsection 25 of section 57-15-10 to provide funds for the provision and operation of a public transportation system within such the city under a contract approved by such the governing body with a private contractor, or by the city itself, which mill levy shall be ever and above any mill levy limitations prescribed by law.

* SECTION 98. AMENDMENT. Section 57-15-56 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-56. Authorization of mill levy for programs and activities for senior citizens - Elections to authorize or remove the levy - State bonding fund coverage - State matching program for senior citizen programs and activities.

1. The board of county commissioners of any county is hereby authorized to levy a tax, or in the event no levy is made by the board of county commissioners, the governing body of any city is authorized to levy a tax, in addition to all levies now authorized by law, for the purpose of establishing or maintaining programs and activities for senior citizens including the expansion of existing senior citizen centers which will provide recreational and other leisure-time activities, informational, health, welfare, counseling, and referral services for senior citizens, and assisting such persons in providing volunteer community or civic services. Such This tax shall not exceed the amount produced by the levy of one mill on a dollar of the net taxable valuation of the county or the city the limitation in subsection 25 of section 55 of this Act and subsection 26 of section 57-15-10. The proceeds of such the tax shall be kept in a separate fund and shall be used exclusively for the public purposes provided for in this section. Such This levy shall be in addition to any moneys expended by the board of county commissioners pursuant to section 11-11-58 or by the governing body of any city pursuant to section 40-05-16.

2. The levy authorized by this section shall not be used to defray any expenses of any organization or agency until such the organization or agency is incorporated under the laws of this state as a nonprofit corporation and has contracted with the board of county commissioners or the governing body of the city in regard to the manner in which such the funds will be expended and the services to be provided. An organization or agency and its program which receives funds under the provisions of this section shall be reviewed or approved annually by the board of county commissioners or the governing body of the city to

* NOTE: Section 57-15-56(1) was also amended by section 75 of Senate Bill No. 2071, chapter 593, and section 1 of Senate Bill No. 2296, chapter 613.

- determine its eligibility to receive funds under the provisions of this section.
3. The levy authorized by this section shall be imposed or removed only by a vote of at least sixty percent of the electorate of the county or city directing the governing body to do so. The governing body shall put the issue before the people either on its own motion or when a petition in writing, signed by qualified electors of the county or city equal in number to at least ten percent of the total vote cast in the county or city for the office of governor of the state at the last general election is presented to said governing body.
 4. The officers or employees of a nonprofit corporation under contract with the board of county commissioners or the governing body of the city, in regard to the manner in which the funds shall be expended and the services are to be provided, are authorized to receive, and shall be eligible for, bonding coverage through the state bonding fund.
 5. The ~~social service board~~ department of human services shall match funds levied by counties and cities for senior citizen programs and activities operated pursuant to ~~the provisions of~~ this section. The grants shall be made on or before March first of each year and shall be equal to the amount levied for the previous taxable year by each county or city within the limitations of legislative appropriations.

* SECTION 99. AMENDMENT. Section 57-15-57 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-57. 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 exceeding the limitation in subsection 26 of section 55 of this Act, 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~~ this levy shall be used solely and exclusively for county welfare purposes, as determined by the county social service board. ~~Such~~ The 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~~ the levy shall be discontinued.

* NOTE: Section 57-15-57 was also amended by section 76 of Senate Bill No. 2071, chapter 593.

* SECTION 100. AMENDMENT. Section 57-19-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-19-04. May levy tax beyond levy limitations. In each year each school district may levy a tax sufficient in amount to establish, maintain, or replenish such special reserve fund, but such the levy shall not exceed such an amount as will be produced by a levy of three mills on the net taxable valuation of property in such school district. Such levy shall be in addition to tax levy limitations otherwise specified by law the limitation in subsection 16 of section 57-15-15.

** SECTION 101. AMENDMENT. Section 57-47-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-47-04. Levy of tax to repay loan - Limitation. Upon the approval of an application for a loan by the Bank of North Dakota, the board of county commissioners applying for such the loan shall be required to levy a general tax from year to year upon all of the general taxable property of the county, not to exceed three mills for any one year exceeding the limitation in subsection 27 of section 55 of this Act, for the purpose of providing funds sufficient to repay the amount of said the loan, with interest, at the time of maturity such the loan to be evidenced by the issuance of certificates of indebtedness in the same manner and form as now prescribed by law. The levy of said tax shall not be subject to any existing mill levy limitations for general or special county purposes, but shall be in addition thereto. The tax shall be levied and collected at the same time and in the same manner as other general or special taxes for county purposes are levied and collected.

*** SECTION 102. AMENDMENT. Section 58-17-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-17-02. Townships - Parks - Tax levy for park purposes. In townships supporting parks, a levy in addition to all other levies permitted by law, not to exceed two mills of the net taxable valuation of property in such township, not exceeding the limitation in subsection 8 of section 56 of this Act may be made for such purposes, but such levies shall not apply to property in any city or park district which levies for park district purposes.

SECTION 103. AMENDMENT. Section 61-16.1-06 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16.1-06. District budget - Tax levy - Financing by special assessment. The fiscal year of the district shall begin July first and end June thirtieth. The water resource board shall estimate the expenses of the district before July first of each year. Estimates of district expenses may include costs of rights of way, easements,

* NOTE: Section 57-19-04 was also amended by section 77 of Senate Bill No. 2071, chapter 593, and section 20 of Senate Bill No. 2047, chapter 608.

** NOTE: Section 57-47-04 was also amended by section 4 of Senate Bill No. 2198, chapter 659.

*** NOTE: Section 58-17-02 was also amended by section 83 of Senate Bill No. 2071, chapter 593.

or other interests in property deemed necessary for the construction, operation, and maintenance of any projects. The district budget may also include an amount necessary for future projects which are part of a master plan prepared and adopted pursuant to section 61-16.1-13. Upon completion and adoption of a budget covering necessary expenses, the board shall send a copy of the budget to the county auditor of each county in the district. Each county auditor shall transmit the same to the board of county commissioners of his or her county. The board of county commissioners shall either disapprove the budget, amend and approve the budget as amended, or approve the budget as submitted and, if approved as amended or as submitted, the board shall, by resolution, levy and authorize and direct the county auditor to extend and spread upon the tax roll of the county or portion of the county in the district a tax of ~~not to exceed four mills on each dollar of taxable valuation~~ not exceeding the limitation in section 64 of this Act in the same manner, and with the same effect, as general property taxes are extended and spread. Funds produced each year by ~~such~~ the tax levy shall be available until expended, and if ~~such~~ the tax levy in any year will not produce sufficient revenue to cover district expenses, a fund sufficient to pay the ~~same~~ district expenses may be accumulated. The acquisition of rights of way, easements, and the construction, operation, and maintenance of a project in a district may, in the discretion of the water resource board, be financed in whole or in part by special assessments against property benefited by such project, or from revenues realized from general tax collections, or from net revenues to be derived from service charges to be imposed and collected for the services of the project, or any combination of such sources.

SECTION 104. AMENDMENT. Section 61-24.2-08 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-24.2-08. District budget - Certification of mill levy - Limitations. The board of directors of the district shall, ~~upon the organization of the board in 1980,~~ and in July of each year thereafter, estimate the expenses and obligations of the district, including, but not limited to, expenses of the directors, expenses of operating and maintaining the offices of the district, and other administrative expenses. The board of directors may include in the budget estimates of funds deemed necessary to create a reserve fund to meet future payments of obligations incurred by the district. Upon the completion and adoption of the budget, the board shall determine a mill levy for each governmental entity within the district in an amount sufficient to meet the expenses of the budget. The mill levy may be in differing amounts for each governmental entity and shall be based upon the benefit to be gained by such governmental entities from the project for which the assessment is made, but in no event shall the mill levy for any governmental entity exceed ~~one mill~~ the limitation in section 65 of this Act. The determination of the mill levy shall be in the form of a resolution adopted by a majority vote of the members of the board.

Approved February 10, 1983

CHAPTER 607

SENATE BILL NO. 2186
(Committee on Education)

(At the request of the Superintendent of Public Instruction)

SCHOOL DISTRICT LEVY LIMITATIONS

AN ACT to amend and reenact subsection 2 of section 57-15-14 of the North Dakota Century Code, relating to tax levy limitations in school districts.

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

* SECTION 1. AMENDMENT. Subsection 2 of section 57-15-14 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. In any school district having a total population of less than four thousand according to the last federal decennial census, there may be levied any specific number of mills that upon resolution of the school board has been approved by sixty at least fifty-five percent of the electors voting upon the question at any regular or special school election.

Approved February 15, 1983

- * NOTE: Section 57-15-14 was also amended by section 15 of Senate Bill No. 2047, chapter 608, by section 2 of House Bill No. 1253, chapter 202, and by section 52 of Senate Bill No. 2071, chapter 593.

CHAPTER 608

SENATE BILL NO. 2047
(Legislative Council)
(Interim Educational Finance Committee)

SCHOOL DISTRICT MILL LEVY CONSOLIDATION

AN ACT to create and enact three new sections to chapter 57-15 of the North Dakota Century Code, relating to the consolidation of school district mill levies into a general fund levy and a special fund levy and exemption of debt service levies; to amend and reenact sections 15-18-04.2, 15-18-05, 15-34.2-06, 15-39.1-28, 15-40.2-12, 15-45-01, 15-47-21, 15-59-08, subsection 4.1 of section 21-03-06, sections 32-12.1-08, 32-12.1-11, 40-55-08, 40-55-09, subsection 3 of section 52-09-08, section 57-15-14, the new section to chapter 57-15 as created by section 59 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, and section 57-19-04 of the North Dakota Century Code, relating to off-campus educational center mill levies, county levies in support of junior colleges or off-campus educational centers, boarding and lodging of high school students, a teachers' retirement fund, tuition for students in grades seven through twelve, kindergartens, equalization tax levies, special education, insurance reserve fund, judgments against school districts, recreation systems, vocational education, old-age survivors' fund, and tax levy limitations; and to repeal the new section to chapter 57-15 as created by section 75 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, and sections 15-20.1-08, 57-15-15, 57-15-18.1, 57-15-18.2, 57-15-49, 57-15-52, 57-15-52.1, and 57-16-05 of the North Dakota Century Code, relating to mill levy consolidation, excess mill levies, and school district mill levies for vocational education, rental expenses, unemployment compensation, libraries, and communication and schoolbus costs.

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

* SECTION 1. AMENDMENT. Section 15-18-04.2 of the North Dakota Century Code as contained in section 19 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

* NOTE: Section 15-18-04.2 was also amended by section 19 of Senate Bill No. 2065, chapter 606, and section 7 of Senate Bill No. 2073, chapter 192.

15-18-04.2. Mill levy for off-campus educational facilities - Election. For the purpose of maintaining and operating such off-campus educational center the school board may levy, upon their its own resolution, a tax not exceeding the limitation in subsection 3 of section 57-15-15 eight mills. If it is found, after the board by resolution has levied its maximum eight mills, that additional funds are needed, the board may submit the question of an additional mill levy not to exceed eight mills, to the electors of the district at any regular or special school election within the district. If approved by sixty percent of the electors voting, the school board may proceed with the levy and collection of the tax. The total mills levied under this section may not exceed sixteen. The levy is in addition to all other mill levy limitations provided by law, and the proceeds shall be placed in a separate fund, accounted for separately, and used exclusively for the support, operation, and maintenance of the off-campus educational center. Expenditures may be made by the school board without going through the institution of higher education with which an agreement has been entered.

* SECTION 2. AMENDMENT. Section 15-18-05 of the North Dakota Century Code as contained in section 20 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

15-18-05. County levy to aid junior college or educational center authorized. The board of county commissioners of any county, or part of a county, in which a junior college or off-campus educational center of a state-supported institution of higher education has been established, or any county, or part of a county, adjacent thereto, may upon approval of the electors of such county at a countywide election, levy a tax of not exceeding the limitation in subsection 11 of section 55 of this Act five mills upon all the property in the county, to aid any special school district having established a junior college or off-campus educational center of a state-supported institution of higher education. The mill levy authorized by this section is over and above any mill levy limitation provided by law. After the approval of such levy, upon petition of five percent of the electors voting in the last preceding countywide election, the county commissioners shall submit the question of the continuance of the levy to the next countywide election, and if the majority of the electors shall vote to discontinue the levy, the levy shall be discontinued in subsequent years.

SECTION 3. AMENDMENT. Section 15-34.2-06 of the North Dakota Century Code as contained in section 22 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

15-34.2-06. Payment of board and lodging for high school students permitted - Levy. If more convenient or economical, any school district may pay a reasonable allowance instead of providing vehicular transportation for eligible high school students residing in the district to attend a county agricultural and training school in a high school in another district. Any school district that

* NOTE: Section 15-18-05 was also amended by section 9 of Senate Bill No. 2073, chapter 192, and section 20 of Senate Bill No. 2065, chapter 606.

furnishes either transportation or an allowance for board and lodging for students attending high schools in another district may levy a tax not exceeding the limitation in subsection 5 of section 57-15-15 pursuant to subdivision a of subsection 1 of section 17 of this Act for such purposes.

* SECTION 4. AMENDMENT. Section 15-39.1-28 of the North Dakota Century Code as contained in section 23 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

15-39.1-28. Mill levy for teachers' retirement. Any school district by a resolution of its school board may levy a tax not exceeding the limitation in subsection 6 of section 57-15-15 pursuant to subdivision b of subsection 1 of section 17 of this Act, the proceeds to be used for the purposes of meeting the district's contribution to the fund arising under this chapter and to provide the district's share, if any, of contribution to the fund for contracted employees of either a multidistrict special education board or another school district where the contracted employees are also providing services to the taxing school district.

SECTION 5. AMENDMENT. Section 15-40.2-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.2-12. Levy for tuition charges permitted. The school board of any school district approving the payment of tuition charges for students in grades seven through twelve or required to make tuition payments under the provisions of this chapter may levy an amount pursuant to subdivision c of subsection 1 of section 17 of this Act sufficient to pay tuition charges, which levy shall not be subject to any mill levy limitations prescribed by law.

SECTION 6. AMENDMENT. Section 15-45-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-01. Establishing kindergartens - Election on mill levy. The school board of any school district may, upon its own motion, establish free public kindergartens in connection with the public schools of the district for the instruction of resident children below school age during the regular school term. A school board which establishes free kindergartens may submit the question of providing for an annual levy sufficient to finance such kindergartens to the electors of the school district at the next annual or special school election. If a majority of the votes cast on the proposal favor the mill levy, the board shall levy such tax until the kindergartens are discontinued as provided in this chapter or until the board determines a levy is no longer necessary. Such levy shall be over and above any mill levy limitations provided by law levy a tax pursuant to subdivision f of subsection 1 of section 18 of this Act. On a petition signed by electors of the school district comprising at least five percent of the number of persons enumerated in the school census for that district for the most

* NOTE: Section 15-39.1-28 was also amended by section 10 of Senate Bill No. 2071, chapter 593, and section 23 of Senate Bill No. 2065, chapter 606.

recent year such census was taken, but in no case less than twenty-five electors, the school board must submit the question of establishing a kindergarten program at the next annual or special school election. Whenever the question of establishing a kindergarten program is placed upon the ballot by petition, the board shall also place on that same ballot the question of providing for an annual levy sufficient to finance such program. Both proposals must be approved by a majority of the votes cast on each before either may take effect. After the kindergarten program is established, the board shall levy such tax until the program is discontinued as provided in this chapter or until the board determines a levy is no longer necessary. Such levy shall be over and above any mill levy limitations provided by law. If the question of establishing a kindergarten program is placed on the ballot, that question must include a statement of any increase in the district's mill levy needed to finance the program. The question must be approved by the district's electors by the respective margins of electorate approval as provided for in section 57-15-14, and approval of the question constitutes elector approval of the additional mill levy necessary to finance the program.

SECTION 7. AMENDMENT. Section 15-47-21 of the North Dakota Century Code as contained in section 24 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

15-47-21. Tax levies for equalization between school districts limited - Remittance tax. When the amount to be levied on each of several districts or parts of districts affected by a change in school district boundaries has been determined, a list of the several amounts shall be made, and the respective amounts shall be set forth opposite the name of the district to which it is chargeable. The entire levy shall be stated substantially in the form provided for certifying school taxes, shall be addressed to the county auditor, and shall be signed by a majority of the members of the county committee or committees. Opposite the several descriptions of property on the tax list shall be entered the names of the school districts within which the property is situated. The levy shall be a valid levy on the taxable property of each district, and shall not exceed the limitation in subsection 7 of section 57-15-15. Not more than fifteen mills of the levy shall be extended against the taxable property in any one year, and the levy, not exceeding fifteen mills on the dollar, shall be extended from year to year until the whole amount has been levied. The county auditor shall preserve the levies and shall extend the several rates from year to year as required by law for school district taxes, and the tax shall be collected at the same time and in the same manner as other taxes are collected, and paid over to the proper school district within which the property upon which the tax is paid is situated. The proceeds of taxes upon parts of districts lying outside of the district with which they are equalized shall be paid to the clerk of the school district within which the property is situated. The taxes levied for equalization purposes shall be in addition to all other taxes for school purposes. This section applies to proceedings under

article II, annexation, and article IV, involuntary dissolution of chapter 15-53.1, but does not apply to article III, reorganization, of chapter 15-53.1 except where specifically so referenced.

SECTION 8. AMENDMENT. Section 15-59-08 of the North Dakota Century Code as contained in section 25 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

15-59-08. School district special education program - Financing - Levy--~~Limitations of levy.~~ The school board of any school district may budget funds from the school district general fund for a special education program for the school district. The school board may, upon approval by a majority of the school board, levy a tax ~~not exceeding the limitation in subsection 8 of section 57-15-15~~ pursuant to subdivision d of subsection 1 of section 17 of this Act for the purpose of carrying out a special education program for the school district, separately or in cooperation with other school districts. ~~The levy provided for in this section shall be collected and paid in the same manner as are other school district property taxes. The county treasurer shall credit the proceeds of the tax levy to a school district special education fund. Such fund shall be expended for the school district special education program.~~

* **SECTION 9. AMENDMENT.** Subsection 4.1 of section 21-03-06 of the North Dakota Century Code as contained in section 30 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

- 4.1. By any school district having a community or junior college or off-campus educational center as provided in chapter 15-18 which has an enrollment of one thousand or more students, upon motion of the governing body, for capital construction purposes, including the construction and equipping of new buildings or repairing or renovating and equipping existing buildings. The governing body may levy a tax not exceeding ~~the limitation in subsection 9 of section 57-15-15~~ two mills on the dollar of the taxable valuation of the school district for the purpose of paying the principal and interest on bonds issued pursuant to this subsection. The mill levy authorized by this subsection is in addition to any mill levy limitations provided by law. The total principal amount of bonds issued pursuant to this subsection shall not exceed seven hundred thousand dollars, and any indebtedness incurred by a school district shall be within debt limitations established by law. Bonds issued under this subsection shall never become a general obligation of ~~the~~ this state of North Dakota.

SECTION 10. AMENDMENT. Section 32-12.1-08 of the North Dakota Century Code as contained in section 37 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

- * **NOTE:** Section 21-03-06(4.1) was also amended by section 30 of Senate Bill No. 2065, chapter 606, and section 13 of Senate Bill No. 2071, chapter 593.

32-12.1-08. Political subdivision insurance reserve fund - Mill levy.

1. A political subdivision, other than a school district, may establish and maintain an insurance reserve fund for insurance purposes, and all political subdivisions including school districts may include in the annual tax levy of the political subdivision such amounts as are determined by the governing body to be necessary for the purposes and uses of the insurance reserve fund. The Except in the case of a school district, the tax levy authorized by this section shall not exceed the limitation in section 59 of this Act Senate Bill No. 2065, as approved by the forty-eighth legislative assembly. If a political subdivision has no annual tax levy, the political subdivision may appropriate from any unexpended balance in its general fund such amounts as the governing body of the political subdivision shall deem necessary for the purposes and uses of the insurance reserve fund.
2. The Except in the case of a school district, the fund established pursuant to this section shall be kept separate and apart from all other funds and shall be used only for the payment of claims against the political subdivision which have been settled or compromised, judgments rendered against the political subdivision for injuries arising out of risks established by this chapter, or costs incurred in the defense of claims. Payments by a school district for the same purposes shall be made out of the district's special fund as established in section 17 of this Act.

SECTION 11. AMENDMENT. Section 32-12.1-11 of the North Dakota Century Code as contained in section 38 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

32-12.1-11. Judgment against political subdivision - Additional tax levy. If a final judgment is obtained against any political subdivision except a school district, the governing body of the political subdivision may by resolution provide for the levy and collection of an annual tax upon all of the taxable property within the political subdivision for the payment of such judgment. The amount levied under this section for the payment of a judgment against a political subdivision shall not exceed the limitation set forth in section 59 of this Act Senate Bill No. 2065, as approved by the forty-eighth legislative assembly.

* SECTION 12. AMENDMENT. Section 40-55-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-55-08. Election to determine desirability of establishing recreation system - How called. The governing body of any municipality, school district, or park district to which this chapter is applicable, may and upon receipt of a petition signed by at least ten qualified

* NOTE: Section 40-55-08 was also amended by section 27 of Senate Bill No. 2071, chapter 593.

voters but not less than five percent of those citizens who voted at the last general election of the municipality, school district, or park district, shall submit to the electors the question of the establishment, maintenance, and conduct of a public recreation system, and except in the case of a school district, the levying of an annual tax for the conduct and maintenance thereof of not more than two and five-tenths mills on each dollar of assessed taxable valuation of all taxable property within the corporate limits or boundaries of such municipality, ~~school district~~, or park district, to be voted upon at the next general election or special municipal election, provided, however, that such questions shall not be voted upon at the next general election unless such action of the governing body shall be taken, or such petition to submit such question shall be filed thirty days prior to the date of such election. A school district may levy a tax for the establishment, maintenance, and conduct of a public recreation system pursuant to subsection 4 of section 18 of this Act.

* SECTION 13. AMENDMENT. Section 40-55-09 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-55-09. Favorable vote at election - Procedure. ~~Upon~~ Except in the case of a school district, upon adoption of the public recreation system proposition at an election by a majority of the votes cast upon the proposition, the governing body of the municipality, ~~school district~~, or park district, by resolution or ordinance, shall provide for the establishment, maintenance, and conduct of a public recreation system, and thereafter levy and collect annually a tax of not more than two and five-tenths mills, or not more than eight and five-tenths mills if the same is authorized as herein provided, on each dollar of the ~~net~~ taxable assessed valuation of all taxable property within the corporate limits or boundaries of the municipality, ~~school district~~, or park district. This tax is to be in addition to the maximum of taxes permitted to be levied in such municipality, ~~school district~~, or park district. The mill levy herein authorized may be raised to not more than eight and five-tenths mills when the increase is approved by the citizens of the municipality, ~~school district~~, or park district after submission of the question in the same manner as provided in section 40-55-08 for the establishment of the public recreation system. The governing body of the municipality, ~~school district~~, or park district shall continue to levy the tax annually for public recreation purposes until the qualified voters, at a regular or special election, by a majority vote on the proposition, decide to discontinue the levy. The governing body of the municipality, school district, or park district, in its discretion, may appropriate additional funds for the operation of the public recreation system if in the opinion of the governing body additional funds are needed for the efficient operation thereof. ~~Nothing in this~~ This chapter shall be construed to does not limit the power of any municipality, school district, or park district to appropriate on its own initiative general municipal, school district, or park district tax funds for the operation of a public recreation system,

* NOTE: Section 40-55-09 was also amended by section 28 of Senate Bill No. 2071, chapter 593.

a community center, or character building facility. A school district may levy a tax for the conduct and maintenance of a public recreation system pursuant to subsection 4 of section 18 of this Act.

* SECTION 14. AMENDMENT. Subsection 3 of section 52-09-08 of the North Dakota Century Code as contained in section 54 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

3. The political subdivision, except a school district, a multidistrict special education board and, or a center board of a multidistrict vocational education center, shall levy a tax sufficient to meet its obligations under this chapter, and, in the case of a school district, to provide that district's share of contribution to the old-age survivor's fund for contracted employees of a multidistrict special education board, up to a maximum levy not exceeding the limitation in section 59 of this Act Senate Bill No. 2065, as approved by the forty-eighth legislative assembly. Any obligations under this chapter over and above the amount raised by the maximum levy permitted in this section shall be paid out of the general fund of the political subdivision. All payments by a school district for obligations incurred under this chapter shall be made out of the school district's special fund established pursuant to section 17 of this Act.

** SECTION 15. AMENDMENT. Section 57-15-14 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-14. Tax levy limitations in school districts. The aggregate amount levied each year for the purposes listed in section 18 of this Act by any school district, except the Fargo school district, shall not exceed such the amount as will be predeed by a in dollars which the school district levied for the prior school year plus eighteen percent up to a general fund levy of twenty-four seventy mills on the dollar of the net assessed taxable valuation of the district except that:

1. In any school district having a total population in excess of four thousand according to the last federal decennial census:
 - a. There may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the electors voting upon the question at any regular or special school district election.
 - b. There shall be no limitation upon the taxes which may be levied if upon resolution of the school board of any such district the removal of the mill levy

* NOTE: Section 52-09-08(3) was also amended by section 32 of Senate Bill No. 2071, chapter 593, and section 54 of Senate Bill No. 2065, chapter 606.

** NOTE: Section 57-15-14 was also amended by section 2 of House Bill No. 1253, chapter 202, by section 1 of Senate Bill No. 2186, chapter 607, and by section 52 of Senate Bill No. 2071, chapter 593.

limitation has been submitted to and approved by a majority of the electors voting at any regular or special election upon such question.

2. In any school district having a total population of less than four thousand according to the last federal decennial census, there may be levied any specific number of mills that upon resolution of the school board has been approved by ~~sixty~~ fifty-five percent of the electors voting upon the question at any regular or special school election.

The question of authorizing or discontinuing such specific number of mills authority or unlimited taxing authority in any school district shall be submitted to the electorate at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of electors of the district equal in number to twenty percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, unless such census is greater than four thousand in which case only fifteen percent of the number of persons enumerated in the school census shall be required. However, not fewer than twenty-five signatures shall be required unless the district has fewer than twenty-five electors, in which case the petition shall be signed by not less than twenty-five percent of the electors of the district. In those districts with fewer than twenty-five electors, the number of electors in the district shall be determined by the county superintendent for such county in which such school is located. However, the approval of discontinuing either such authority shall not affect the tax levy in the calendar year in which the election is held. The election shall be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy.

SECTION 16. AMENDMENT. The new section to chapter 57-15 of the North Dakota Century Code as created by section 59 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

Exceptions to tax levy limitations in political subdivisions. The tax levy limitations specified by law do not apply to the following mill levies, expressed in mills per dollar of taxable valuation of property in the political subdivision. For purposes of this section "political subdivision" has the same meaning as in section 32-12.1-02.

1. A political subdivision levying a tax for the control of pests in accordance with section 4-33-11 may levy a tax not exceeding one mill.
2. A political subdivision, except a school district, levying a tax for an insurance reserve fund according to section 32-12.1-08 may levy a tax not exceeding five mills.

3. A political subdivision, except a school district, levying a tax for the payment of a judgment in accordance with section 32-12.1-11 may levy a tax not exceeding five mills.
4. A political subdivision levying a tax for railroad purposes in accordance with section 49-17.2-21 may levy a tax not exceeding four mills.
5. A political subdivision, except a school district, levying a tax for old age and survivors' insurance according to section 52-09-08 may levy a tax not exceeding forty mills.

Additionally, tax levy limitations do not apply to taxes levied pursuant to any statute which expressly provides that the taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

SECTION 17. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Mill levies requiring board action - Proceeds to special fund account.

1. A school board of any school district may levy an amount sufficient to cover the costs of the following:
 - a. Board and lodging for high school students as provided in section 15-34.2-06.
 - b. The teachers' retirement fund as provided in section 15-39.1-28.
 - c. Tuition for students in grades seven through twelve as provided in section 15-40.2-12.
 - d. Special education program as provided in section 15-59-08.
 - e. The establishment and maintenance of an insurance reserve fund for insurance purposes as provided in section 32-12.1-08.
 - f. A final judgment obtained against a school district.
 - g. The district's share of contribution to the old-age survivors' fund and matching contribution for the social security fund as provided by chapter 52-09 and to provide the district's share of contribution to the old-age survivors' fund and matching contribution for the social security fund for contracted employees of a multidistrict special education board.

- h. The rental or leasing of buildings, property, or classroom space. Minimum state standards for health and safety applicable to school building construction shall apply to any rented or leased buildings, property, or classroom space.
- i. Unemployment compensation benefits.
- 2. A school board may levy no more than a total of ninety mills for the purposes listed in subsection 1 except that this limitation does not apply to mill levies pursuant to subdivisions a, c, and f of subsection, 1.
- 3. All proceeds of any levy established pursuant to this section shall be placed in the school district's special fund account and may be expended to achieve the purposes for which the taxes authorized by this section are levied.

SECTION 18. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Mill levies requiring voter approval - Proceeds to general fund account.

- 1. Upon resolution of the school board and approval of those voting on the question by the respective margins of electorate approval as provided for in section 57-15-14, the school district may levy a tax in addition to mill levy limitations provided by law, upon all taxable property within the school district for general expenses, including expenditures for the following purposes:
 - a. Participating in cooperative vocational education programs approved by the state board.
 - b. Maintaining a vocational education program approved by the state board and established only for that school district.
 - c. Paying the cost of purchasing, contracting, operating, and maintaining schoolbuses.
 - d. Establishing and maintaining school library services.
 - e. Equipping schoolbuses with two-way communications and central station equipment and providing for the installation and maintenance of such equipment.
 - f. Establishing free public kindergartens in connection with the public schools of the district for the instruction of resident children below school age during the regular school term.

2. If a school district maintained a levy to finance either its participation in a cooperative vocational education program or its sponsorship of single-district vocational education programs prior to the effective date of this Act, and the district discontinues its participation in or sponsorship of those vocational education programs, that district must reduce the proposed aggregated expenditure amount for which its general fund levy is used by the dollar amount raised by its prior levy for the funding of those programs.
3. In presenting a proposed mill levy to the school district electorate pursuant to this section and section 57-15-14, a school board may denote on the ballot those purposes listed in subdivisions a through f of subsection 1 for which the levy is made.
4. The governing body of a school district may, and upon receipt of a petition signed by at least ten qualified voters but not less than five percent of those citizens who voted at the last general election of the school district shall, submit to the electors at the next special election or the next general election if the petition is received or the governing body acts thirty days prior to said general election, the question of the levying of an annual tax for the conduct and maintenance of a public recreation system. Upon adoption of the public recreation system proposition at an election on the proposition as provided in this subsection and section 40-55-08, by the respective margins of electorate approval as provided for in section 57-15-14, the governing body of the school district may levy and collect an annual tax not subject to any limitations imposed by law for the maintenance and conduct of a public recreation system. The governing body of the school district shall continue to levy such tax until the district electorate voting at a regular or special election decides to discontinue the levy by the respective margins of electorate approval as provided for in section 57-15-14.
5. All proceeds of any levy established pursuant to this section shall be placed in the school district's general fund account and may be expended to achieve the purposes for which the taxes authorized by this section are levied.

SECTION 19. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

School district mill levies for bonded indebtedness excepted. The tax levy limitations provided for in section 57-15-14 and section 17 of this Act shall not apply to taxes levied for the purpose of paying interest on a bonded debt of the district, or

levies made to pay and discharge the principal on a bonded debt at maturity.

* SECTION 20. AMENDMENT. Section 57-19-04 of the North Dakota Century Code as contained in section 100 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

15-19-04. May levy tax beyond levy limitations. In each year each school district may levy a tax sufficient in amount to establish, maintain, or replenish such special reserve fund, but the levy shall not exceed the limitation in subsection 16 of section 57-15-15 the amount produced by a levy of three mills on the taxable valuation of property in the school district. The levy is in addition to tax levy limitations otherwise specified by law.

SECTION 21. The change to section 57-15-14 by this Act does not require a school district to reduce its mill levy below the amount authorized on June 30, 1983.

** SECTION 22. REPEAL. The new section to chapter 57-15 of the North Dakota Century Code as created by section 75 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, and sections 15-20.1-08, 57-15-15, 57-15-49, 57-15-52, and 57-16-05 of the North Dakota Century Code, and sections 57-15-18.1, 57-15-18.2, and 57-15-52.1 of the 1981 Supplement to the North Dakota Century Code are hereby repealed.

Approved April 14, 1983

* NOTE: Section 57-19-04 was also amended by section 100 of Senate Bill No. 2065, chapter 606, and section 77 of Senate Bill No. 2071, chapter 593.

** NOTE: Section 15-20.1-08 was amended by section 1 of House Bill No. 1253, chapter 202, and section 21 of Senate Bill No. 2065, chapter 606.

Section 57-15-15 was amended by section 53 of Senate Bill No. 2071, chapter 593, and section 75 of Senate Bill No. 2065, chapter 606.

Section 57-15-18.1 was amended by section 54 of Senate Bill No. 2071, chapter 593, and section 76 of Senate Bill No. 2065, chapter 606.

Section 57-15-18.2 was amended by section 55 of Senate Bill No. 2071, chapter 593, and section 77 of Senate Bill No. 2065, chapter 606.

Section 57-15-49 was amended by section 90 of Senate Bill No. 2065, chapter 606.

Section 57-15-52 was amended by section 93 of Senate Bill No. 2065, chapter 606.

Section 57-15-52.1 was amended by section 94 of Senate Bill No. 2065, chapter 606, and section 3 of House Bill No. 1253, chapter 202.

Section 57-16-05 was amended by section 4 of House Bill No. 1253, chapter 202.

CHAPTER 609

SENATE BILL NO. 2465
(Senators Wright, Lee, Redlin)
(Representatives R. Meiers, R. Anderson, Aubol)

TOWNSHIP LEGAL CONTINGENCY FUND MILL LEVY

AN ACT to provide for a ten-mill levy, in addition to any levies authorized by law, for organized or unorganized townships for purposes of a legal contingency fund.

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

SECTION 1. Levy of taxes for legal contingency fund. Upon presentation of a petition signed by twenty-five percent of the electors in an organized or unorganized township voting in the last gubernatorial election, the governing body of an organized township or the board of county commissioners, for unorganized townships, may call a special election for the purpose of voting on the question of authorizing an excess levy on property within the township for the current year and not to exceed four succeeding years, or may submit the question to the voters at the next regular township election, for organized townships, or at the next regular election, for unorganized townships. If a special election is called, the election shall be held not later than September first of the year in which the tax is to be levied, and the election shall be conducted as other elections of the political subdivision are conducted. The levy permitted by this section shall be in addition to all other levies authorized by law and shall be in an amount not to exceed ten mills on the taxable value of property in the township for not to exceed five years. Revenues from the levy shall be deposited in a special fund in the township or county treasury known as the legal contingency fund. Revenue in the fund may be used only for purposes of expenses of legal actions authorized or entered into by the governing body of the township or the county, on behalf of unorganized townships. If sixty percent of all votes cast on the question of authorizing the excess levy of taxes for the legal contingency fund are in favor of the excess levy, it shall be authorized and the county auditor shall extend such excess levy upon the tax list with other taxes. Upon expiration of any mill levy authorized by this section the governing body of the township or county may, by resolution, transfer any unobligated balance in the legal contingency fund to the general fund of the township or county.

Approved April 8, 1983

CHAPTER 610

SENATE BILL NO. 2387
(Senators Krauter, Barth, Wright)
(Representatives R. Meyer, Thompson, C. Martin)

EMERGENCY FUND MILL LEVY

AN ACT to amend and reenact section 57-15-28 of the North Dakota Century Code, or in the alternative to amend and reenact subsection 22 of section 55 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, relating to the county emergency fund mill levy.

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

SECTION 1. AMENDMENT. If Senate Bill No. 2065 does not become effective, section 57-15-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-28. **Emergency fund - County.** The governing body of any county may levy a tax for emergency purposes which shall not exceed the amount produced by the levy of ~~one mill~~ two mills on the dollar of the net taxable valuation of the county. Such emergency fund and the sums therein shall not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes, but shall be shown in such budget as an "emergency fund" and shall not be deducted from the budget as otherwise provided by law. Each county may create an emergency fund, and all taxes levied for emergency purposes by any county, when collected, shall be covered into such emergency fund, and shall be used only for emergency purposes caused by the destruction or impairment of any county property necessary for the conduct of the affairs of the county, emergencies caused by nature or by the entry by a court of competent jurisdiction of a judgment for damages against the county. The emergency fund shall not be used for any road construction or maintenance, except for repair of roads damaged by nature within sixty days preceding such determination to expend emergency funds, or for the purchase of road equipment. Any unexpended balance, remaining in the emergency fund at the end of any fiscal year, shall be kept in such fund. When the amount of money in the emergency fund, plus the amount of money due the fund from outstanding taxes, shall equal the amount produced by a levy of five mills on the taxable valuation, the levy of ~~one mill~~ two mills for emergency purposes shall be discontinued, and no further levy shall be made

for this purpose until another levy of ~~one mill~~ two mills or less is required to replenish the emergency fund.

SECTION 2. AMENDMENT. Subsection 22 of section 55 of Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

22. A county levying a tax for emergency purposes as provided in section 57-15-28 may levy a tax not exceeding ~~one mill~~ two mills.

Approved March 17, 1983

CHAPTER 611

HOUSE BILL NO. 1683
(Wentz, Black)

**PUBLIC BUILDING ACQUISITION, RENOVATION,
REPAIR LEVY**

AN ACT to amend and reenact section 57-15-44 of the North Dakota Century Code, or in the alternative to amend and reenact subsection 22 of section 57-15-10 and section 57-15-44 of the North Dakota Century Code as amended by Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, relating to a city tax levy for acquiring real estate for public buildings.

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

SECTION 1. AMENDMENT. If Senate Bill No. 2065 does not become effective, section 57-15-44 of the 1981 Supplement to 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~~ five 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, renovation and repair 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.

SECTION 2. AMENDMENT. Subsection 22 of section 57-15-10 of the North Dakota Century Code as amended by Senate Bill No. 2065, as

approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

22. Taxes levied for acquiring real estate for a public building pursuant to or other purposes as provided in section 57-15-44 may be levied in an amount not exceeding two five mills.

SECTION 3. AMENDMENT. Section 57-15-44 of the North Dakota Century Code as amended by Senate Bill No. 2065, as approved by the forty-eighth legislative assembly, 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 exceeding the limitation in subsection 22 of section 57-15-10 for a fund which shall be used for the purpose of acquiring real estate as a site for public buildings, construction of public buildings, renovation and repair 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. The tax is to be levied, spread, and collected in the same manner as are other taxes in the city. Whether the 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, the petition to be filed not less than sixty days before the election. If the majority vote of the electors vote to discontinue the levy, it may not again be levied without a majority vote of the electors at a later regular election on the question of relevying the tax, which question may be submitted upon petition as above provided or by decision of the governing board.

Approved April 6, 1983

CHAPTER 612

HOUSE BILL NO. 1608
(Halmrast, A. Meier)

LEVY FOR TRANSPORTATION OF STUDENTS

AN ACT to create and enact a new section to chapter 57-15 of the North Dakota Century Code, relating to a city mill levy for the transportation of public school students.

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

SECTION 1. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

City mill levy for transportation of public school students. The governing body of any city, upon approval by a majority vote of the electors of the city at any citywide election, may annually levy a tax on the net taxable assessed valuation of property within the city to provide funds for fees charged by a school district pursuant to section 15-34.2-06.1 for transportation for public school students who reside in the city but who attend school in another city in the same school district. A city levying a tax pursuant to this section may levy only so much as will be required to provide an amount representing the difference between the estimated state transportation payment to be received by the school district on behalf of students residing in the city but attending school outside of the city and the estimated actual cost to be incurred by the district in providing transportation for those students. The mill levy provided for in this section is over and above any mill levy limitations prescribed by law.

Approved March 16, 1983

CHAPTER 613

SENATE BILL NO. 2296
(Senators Wenstrom, Tennesfos, Heigaard)
(Representatives Mushik, S. F. Hoffner)

LEVY FOR PROGRAMS FOR SENIOR CITIZENS

AN ACT to amend and reenact subsection 1 of section 57-15-56 of the North Dakota Century Code, relating to mill levies by counties and cities for programs for senior citizens.

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

* SECTION 1. AMENDMENT. Subsection 1 of section 57-15-56 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The board of county commissioners of any county is hereby authorized to levy a tax, or ~~in the event if~~ no levy is made by the board of county commissioners, the governing body of any city in the county is authorized to levy a tax, in addition to all levies now authorized by law, for the purpose of establishing or maintaining programs and activities for senior citizens including the expansion of existing senior citizen centers which will provide recreational and other leisure-time activities, informational, health, welfare, counseling, and referral services for senior citizens, and assisting such persons in providing volunteer community or civic services. If the tax authorized by this section is levied by the board of county commissioners, any existing levy under this section by a city in the county shall become void for subsequent taxable years. The removal of the levy is not subject to the requirements of subsection 3. Such tax shall not exceed the amount produced by the levy of one mill on a dollar of the ~~net~~ taxable valuation of the county or the city. The proceeds of such tax shall be kept in a separate fund and shall be used exclusively for the public purposes provided for in this section. Such levy shall be in addition to any moneys expended by the board of county commissioners pursuant to section 11-11-58 or by the governing body of any city pursuant to section 40-05-16.

Approved March 23, 1983

- * NOTE: Section 57-15-56(1) was also amended by section 98 of Senate Bill No. 2065, chapter 606, and section 75 of Senate Bill No. 2071, chapter 593.

CHAPTER 614

SENATE BILL NO. 2437
(Tweten, Erickson)

SCHOOL DISTRICT VOUCHER REDEMPTION

AN ACT to amend and reenact section 57-19-07 of the North Dakota Century Code, providing for a three-year period within which school districts may redeem vouchers from their special reserve funds.

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

SECTION 1. AMENDMENT. Section 57-19-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-19-07. Limitation on amount drawn from fund - Tax collections used to restore fund. The amount of outstanding, unredeemed vouchers shall never exceed in the aggregate a sum equal to eighty-five percent of the unencumbered uncollected taxes for the current and fifty percent for the four preceding years which are apportionable to the general fund of such school district. Such vouchers, in the hands of the county treasurer, shall be redeemed from the collections of such uncollected taxes. A tax shall be deemed to have been levied when it has been voted by the school board and certified to the county auditor. ~~Whenever there are unredeemed vouchers in such voucher registry, the~~ The county treasurer shall ~~first apply~~ redeem vouchers in the voucher registry by applying the proceeds of the collections of that portion of any unencumbered uncollected tax which would otherwise be apportionable to the general fund of the school district to the. The redemption of such vouchers shall be in the order listed in ~~such~~ the voucher register, and the county treasurer shall deposit such sum the proceeds from the collected school district taxes in the special reserve fund and shall mark the voucher and the entry in the register as "redeemed", and thereupon shall return to the governing body of the school district such voucher, marked "redeemed", and signed by the county treasurer. In the instance of a voucher of this type issued by the county treasurer in connection with the draft by a school district from the special reserve fund, the county treasurer may apply no more of the proceeds of the collections of unencumbered uncollected tax which would otherwise be apportionable to the district's general fund than the amount of such proceeds which would redeem the amount of a voucher within three school fiscal years. Any balance of collections apportionable to the general fund of the school district remaining after redemption of all such vouchers, shall be paid to the school district in the manner now provided by law.

Approved March 17, 1983

CHAPTER 615

HOUSE BILL NO. 1588
(Representatives W. Williams, Retzer)
(Senator Todd)

DELINQUENT PROPERTY TAXES

AN ACT to amend and reenact section 57-20-01 and subsection 2 of section 57-26-03 of the North Dakota Century Code, relating to the penalties assessed for delinquent property taxes and redemption from real estate tax sales.

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

SECTION 1. AMENDMENT. Section 57-20-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-01. Real and personal property taxes - When due and delinquent - Penalties. All real and personal property taxes and yearly installments of special assessment taxes shall become due on the first day of January following the year for which the taxes were levied. The first installment of real estate taxes, all personal property taxes and yearly installments of special taxes shall become delinquent on the first day of March following and, if not paid on or before said date, shall be subject to a penalty of ~~two~~ three percent, and on May first following an additional penalty of ~~two~~ three percent, and on July first following an additional ~~two~~ three percent, and an additional penalty of ~~two~~ three percent on October fifteenth following. From and after January first of the year following the year in which the taxes become due and payable, simple interest at the rate of seven twelve percent per annum upon the principal of the unpaid taxes on personal property shall be charged until the taxes and penalties are paid, with the interest charges to be prorated to the nearest full month for a fractional year of delinquency. The second installment of real estate taxes shall become delinquent on October fifteenth, and, if not paid on or before that date shall become subject to a penalty of ~~two~~ six percent.

SECTION 2. AMENDMENT. Subsection 2 of section 57-26-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If the land was sold to the county for lack of bidders at the sale of the land for taxes, by paying the amount of the certificate or the amount entered in the record as the amount for which sold, plus interest thereon at the rate of ~~six~~ twelve percent per annum;

Approved March 17, 1983

CHAPTER 616

HOUSE BILL NO. 1446
(Serenus Hoffner, S. F. Hoffner)

REAL ESTATE TAX STATEMENTS

AN ACT to amend and reenact section 57-20-07.1 of the North Dakota Century Code, relating to the mailing of real estate tax statements by the county treasurer.

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

SECTION 1. AMENDMENT. Section 57-20-07.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-07.1. County treasurer to mail real estate tax statement. On or before December twenty-sixth 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. If a parcel of real property is owned by more than one individual, the county treasurer shall send only one statement to one of the owners of that property. Additional copies of the tax statement will be sent to the other owners upon their request, and the furnishing of their names and addresses to the county treasurer. Such tax statements shall include a dollar valuation of the true and full value as defined by law 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 fifteenth deadline.

Approved March 4, 1983

CHAPTER 617

SENATE BILL NO. 2300
(Dotzenrod)

RURAL ELECTRIC COOPERATIVE TAXATION

AN ACT to amend and reenact subsection 2 of section 57-33-04 of the North Dakota Century Code, relating to the taxation of rural electric cooperatives by cities.

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

SECTION 1. AMENDMENT. Subsection 2 of section 57-33-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. a. In addition to and notwithstanding any other provisions of this chapter, the governing body of any incorporated city in which electric power is furnished to consumers in the city by a rural electric distribution cooperative may, by ordinance, elect to impose an annual tax upon the rural electric distribution cooperative for the privilege of distributing and furnishing such power to consumers within the city. The amount of such tax shall be measured and limited in the manner hereinafter provided.
- b. The assessing officer responsible for the local ad valorem assessment of property in the city shall annually determine the value of the distribution system within the geographic limits of the incorporated city that is operated by the rural electric distribution cooperative and is reasonably necessary for the distribution by it of electric power to consumers in the city. As used in this subdivision and subsection the term "distribution system" shall not include buildings, equipment, tools, and supplies that are necessary and are used in the operation of the entire rural electric cooperative system, both within and outside the incorporated limits of the city. The assessing officer in determining such valuation may request the aid and assistance of personnel in the office of the state tax commissioner

who are charged with the duty of assembling and evaluating the information that is used by the tax commissioner in making tentative valuations pursuant to the provisions of chapter 57-06. In determining such valuation, the assessing officer shall value it at an amount that is, insofar as reasonably possible, equal to the amount at which it would be valued pursuant to the provisions of chapter 57-06 if it were subject to assessment thereunder.

- c. After the assessing officer has determined the value of such property of the cooperative, he shall send by mail to the cooperative a notice in which the amount of such valuation is stated and in which a day approved by the governing body of the city is specified on which the representatives of the cooperative may appear and present information relating to the amount and value of the property of the cooperative that is valued for the purposes of this subsection. The notice shall be mailed at least ten days prior to the day prescribed by law for the governing body to convene as a board of equalization. After considering such information as may be presented by the representatives of the cooperative and by the assessing officer, the governing body shall, within ten days after the day specified in the notice, approve or adjust the valuation made by the assessing officer and shall immediately notify the cooperative by mail of the amount of valuation determined by it. If such cooperative is dissatisfied with the valuation set by the governing body, it may bring an action for review of the valuation in district court of the county in which the city is located, provided such action is brought before the privilege tax imposed pursuant to this subsection becomes due.
- d. The governing body of the city shall, on or before the first day of December of each year, compute and assess the amount of the privilege tax due from the cooperative by multiplying ~~one-half of the valuation~~ the taxable value of the cooperative's property as determined by it by the total amount of mills levied by it for all purposes on other property in the city that is assessed and taxed pursuant to the ad valorem property tax laws of this state; from such amount there shall then be subtracted that amount of tax levied on the cooperative pursuant to the provisions of section 57-33-04 that is allocable and distributable to the city pursuant to section 57-33-07; and the difference then remaining shall be the amount of tax levied on the cooperative by the governing body of the city for the privilege of distributing and furnishing electric power to consumers in the city. The county auditor, when

requested, shall notify the governing body of the city of the amount of tax allocated by him to the city pursuant to section 57-33-06. The tax shall be paid by the cooperative to the ~~treasurer~~ auditor of the city which levies the tax and shall be credited to its general fund.

- e. The provisions of this subsection shall not be construed as subjecting the cooperative to the jurisdiction of the public service commission nor as classifying such cooperative as a public utility company.

Approved March 17, 1983

CHAPTER 618

HOUSE BILL NO. 1728

(Strinden, Backes)

(Approved by the Committee on Delayed Bills)

ELECTRICAL GENERATING PLANT ADDITIONAL
TAX

AN ACT to amend and reenact subsection 2 of section 57-33.1-02 and sections 57-60-02, 57-60-04, 57-60-05, and 57-60-14 of the North Dakota Century Code, imposing an additional tax on electrical generating plants and providing for deposit of funds from the additional tax in the state general fund.

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

SECTION 1. AMENDMENT. Subsection 2 of section 57-33.1-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. In addition to the tax imposed under subsection 1, the tax commissioner shall levy a tax upon transmission lines of two hundred thirty kilovolts or larger, owned by cooperatives subject to the provisions of this chapter and chapter 57-60 and carrying electrical energy the gross receipts or production of which have been subjected to the tax imposed by subsection 1 of this section or ~~subsection~~ subsections 2 and 3 of section 57-60-02, at the rate of two hundred twenty-five dollars per mile [1.61 kilometers] or fraction thereof of such lines located in this state. The tax imposed by this subsection shall be in lieu of any property tax on such lines and any substation used in delivering electrical energy, the gross receipts or production of which have been subjected to the tax imposed by subsection 1 of this section or ~~subsection~~ subsections 2 and 3 of section 57-60-02. The proceeds derived from the taxing of transmission lines shall be allocated to each county in which such transmission lines are located in the proportion that the miles of such lines in a county bear to the total miles of such transmission lines located within this state. Revenues received by each county shall be deposited in the county general fund.

* SECTION 2. AMENDMENT. Section 57-60-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-02. Imposition of taxes. There is hereby imposed upon the operator of each coal conversion facility an annual tax for the privilege of producing products of such coal conversion facility. The rate of the tax shall be computed as follows:

1. For all coal conversion facilities, other than electrical generating plants and coal gasification plants as provided in subsections 2 and 3, and 4, the tax shall be measured by the gross receipts derived from such facility for the preceding calendar year and shall be in the amount of two and one-half percent of such gross receipts.
2. For electrical generating plants, the tax shall be at a rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale.
3. For electrical generating plants, in addition to the tax imposed by subsection 2, there shall be a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale.
4. For coal gasification plants, the tax shall be either the amount provided in subsection 1 or ten cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale, whichever is greater.

** SECTION 3. AMENDMENT. Section 57-60-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-04. Payment of taxes for plants other than electrical generating plants - When taxes due - When delinquent.

1. The taxes imposed by this chapter on operators of coal conversion facilities other than electrical generating plants shall be levied by the tax commissioner on or before April fifteenth of each year. Each operator of a coal conversion facility subject to the taxes imposed by subsections 1 and 3 4 of section 57-60-02 shall annually on or before April first file a report with the commissioner in such form and containing such information as the commissioner may prescribe and demand. Such report shall state the total amount of gross receipts derived and synthetic natural gas produced by such coal conversion facility during the preceding calendar year. On or before May first of each year, the commissioner shall notify in writing each operator of a coal conversion facility

* NOTE: Section 57-60-02 was also amended by section 9 of House Bill No. 1727, chapter 648.

** NOTE: Section 57-60-04 was repealed by section 14 of House Bill No. 1727, chapter 648.

subject to the taxes imposed by subsections 1 and 3 4 of section 57-60-02 of the amount of tax imposed. Any person aggrieved by the amount of tax levied by the commissioner may make application in writing within fifteen days of notification to the commissioner for an abatement hearing which shall be granted not later than fifteen days after the receipt of the application. The commissioner may grant or reject in whole or in part any plea for abatement, and upon conclusion of the hearing shall proceed to make a final levy against the applicant.

2. The taxes levied under subsections 1 and 3 4 of section 57-60-02 shall become due and payable to the commissioner on the fifteenth day of June in the year in which such taxes are levied. Such taxes shall become delinquent on the first day of July following, and, if not paid on or before such date, shall be subject to a penalty as provided in section 57-60-09.

* SECTION 4. AMENDMENT. Section 57-60-05 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-05. Payment of taxes on electrical generating plants - When taxes due - When delinquent. The taxes imposed by this chapter on operators of electrical generating plants shall be due within thirty days after the end of each calendar quarter, and, if not received by the thirtieth day, shall become delinquent and shall be collected as herein provided. The commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax, and when such a request is granted, the tax shall not be delinquent until the extended period has expired. The tax commissioner shall require a report to be filed quarterly by each person subject to the taxes imposed by ~~subsection~~ subsections 2 and 3 of section 57-60-02, in such form as the commissioner shall prescribe, to provide such information as the commissioner deems necessary for the proper administration of this chapter.

SECTION 5. AMENDMENT. Section 57-60-14 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-14. Allocation of revenue. The state treasurer, on or before July fifteenth of each year, shall allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter and moneys received for those taxes for which a credit is allowed pursuant to section 57-60-06, notwithstanding the provisions of section 57-33.1-08, thirty-five percent to the county and sixty-five percent to the state general fund, except moneys received from the tax imposed by subsection 3 of section 57-60-02, which shall be deposited in the state general fund.

Approved April 20, 1983

* NOTE: Section 57-60-05 was also amended by section 10 of House Bill No. 1727, chapter 648.

CHAPTER 619

HOUSE BILL NO. 1732
(Representatives Backes, Strinden)
(Senators Nething, Redlin)
(Approved by the Committee on Delayed Bills)

MIDA BOND TAX EXEMPTION

AN ACT to amend and reenact sections 57-35-04, 57-35.1-01, and 57-35.2-02 of the North Dakota Century Code, relating to tax on banks and trust companies, and building and loan associations; to provide an effective date; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 57-35-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35-04. Basis of tax. The liability for the tax imposed by this chapter shall arise upon the first day of each calendar year, and shall be based upon and measured by the net income of each bank or trust company for the preceding calendar year, including the amount of its income from tax-exempt securities, ~~except for income from bonds for a project as provided for in subsection 4 of section 40-57-03,~~ for such year as returned to the tax commissioner and county auditor, and the tax thereon shall be computed at the rate of five percent, but the minimum tax assessable to any one taxpayer shall be fifty dollars.

SECTION 2. AMENDMENT. Section 57-35.1-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.1-01. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Building and loan association" or "association" means any building and loan association or savings and loan association organized under the laws of the United States or the state of North Dakota, located in and having its principal place of business in this state.

2. "Net income" means gross income less the following deductions:
- a. Ordinary and necessary expenses paid or incurred in carrying on association business.
 - b. Interest or dividends paid.
 - c. Taxes, other than taxes imposed under this chapter, paid or accrued within the taxable year.
 - d. Losses incurred during the taxable year not compensated for by insurance or other reimbursement.
 - e. Interest or income received on bonds for a project as provided for in subsection 4 of section 40-57-03.

SECTION 3. AMENDMENT. Section 57-35.2-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.2-02. Imposition and basis of tax. An annual tax is hereby imposed upon each bank, trust company, and 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, 1970. The tax shall be based upon and measured by the net income of each bank, trust company, and building and loan association for the preceding calendar year, including the amount of income received from tax-exempt securities, but excluding the amount of income received from bonds for a project as provided for in subsection 4 of section 40-57-03. The amount of the tax shall be computed at a rate of two percent of such net income. 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. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1981. No bank, trust company, or building and loan association may claim a refund or credit for taxes paid under this chapter for years before the effective date unless the taxes were timely paid under protest.

SECTION 5. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved April 28, 1983

CHAPTER 620

HOUSE BILL NO. 1443
(Representatives Unhjem, Wold)
(Senator Tennesfos)

TAX DEDUCTIBLE CONTRIBUTION

AN ACT to create and enact a new section to chapter 57-35.2 of the North Dakota Century Code, relating to the deduction of a credit for charitable contributions from the tax on banks, trust companies, and savings and loan associations; and to provide an effective date.

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

SECTION 1. A new section to chapter 57-35.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

1. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided in this subsection, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subsection for any taxable year shall not exceed twenty percent of the taxpayer's total tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.
2. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided in this subsection, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year to nonprofit private institutions of secondary education located within the state. The amount allowable as a credit under this subsection for any taxable year shall not exceed twenty percent of the taxpayer's total tax

under this chapter for the year, or two thousand five hundred dollars, whichever is less.

3. For the purpose of this section, the term "nonprofit private institution of higher education" shall mean only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" shall mean only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the department of public instruction and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through twelfth grades.
4. For purposes of this section, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed in section 57-35.2-03 for filing the return for the taxable year.

SECTION 2. EFFECTIVE DATE. The provisions of this Act are effective for taxable years beginning after December 31, 1982.

Approved April 5, 1983

CHAPTER 621

HOUSE BILL NO. 1712
(Strinden, Backes)

TOBACCO PRODUCTS TAX

AN ACT to amend and reenact section 57-36-32 of the North Dakota Century Code, relating to taxes on sales of cigarettes; to provide an effective date; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 57-36-32 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-32. Separate and additional tax on the sale of cigarettes - Collection - Allocation of revenue - Tax avoidance prohibited. There is hereby levied and assessed and there shall be collected by the state tax commissioner and paid to the state treasurer, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of ~~one mill~~ four mills on each such cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures. No person, firm, or corporation shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying such tax thereon to the state tax commissioner. All of the moneys collected by the state treasurer under this section shall be credited to the state general fund.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on April 1, 1983.

SECTION 3. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 23, 1983

CHAPTER 622

HOUSE BILL NO. 1071
(Legislative Council)
(Interim Tax Statutes Revision Committee)

STATE AND FEDERAL ESTATE TAX COORDINATION

AN ACT to amend and reenact subsection 8 of section 57-37.1-01 of the North Dakota Century Code, relating to coordinating state and federal estate tax provisions; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDMENT. Subsection 8 of section 57-37.1-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "United States Internal Revenue Code of 1954, as amended" means the United States Internal Revenue Code of 1954 as amended ~~to and including~~ through December 31, ~~1980~~ 1982.

SECTION 2. EFFECTIVE DATE. The provisions of this Act shall be effective for the estate of any decedent whose death occurs on or after January 1, 1982.

SECTION 3. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 4, 1983

CHAPTER 623

HOUSE BILL NO. 1122
(Unhjem)

SAFE DEPOSIT BOX ACCESS

AN ACT to amend and reenact section 57-37.1-12 of the North Dakota Century Code, relating to access to the safe deposit box of a decedent.

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

SECTION 1. AMENDMENT. Section 57-37.1-12 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37.1-12. Duties of depositories - Inventory of contents of safe deposit box required. No safe deposit company, trust company, corporation, bank, or other institution or person engaged in the business of renting safe deposit boxes or other receptacles of similar character shall rent any such box or receptacle without first procuring from each person given access thereto an agreement in writing to the effect that upon the death of any person having the right of access to such box or receptacle, notice of such death will be given to such safe depository, bailee, or lessor before seeking access to such box or receptacle. A safe deposit company, trust company, corporation, bank, or other institution or person having the possession, control, custody, or partial custody of any safe deposit box or similar receptacle shall not permit access to such box or receptacle after the death of any person who at the time of his death had the right or privilege of access thereto, by any other person until a complete inventory of the entire contents of the safe deposit box or receptacle has been prepared by the personal representative of the deceased person ~~or~~, a cotenant of the safe deposit box or receptacle, or any other person granted access by county court order in the presence of an officer or other agent of the lessor of the box. The inventory so prepared shall be filed with the state tax commissioner by the lessor of the box within thirty days from the date of its preparation. After the lessor of the box has complied with the provisions of this section, it shall not limit access to the safe deposit box or similar receptacle by the personal representative of the deceased person or cotenant of the safe deposit box or receptacle or to any other person granted access by county court order, and it shall be released of all liability to the state of North Dakota, and for any assets, documents, or things taken from the safe deposit box or similar receptacle.

Approved March 3, 1983

CHAPTER 624

HOUSE BILL NO. 1586
(Schneider)

INCOME TAX FILING REQUIREMENTS

AN ACT to amend and reenact subsection 2 of section 57-38-01, subsection 1 of section 57-38-30.3, subsections 1 and 4 of section 57-38-31, and section 57-38-32 of the North Dakota Century Code, relating to income tax.

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

SECTION 1. AMENDMENT. Subsection 2 of section 57-38-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Corporation" includes associations, business trusts, joint stock companies, and insurance companies.

SECTION 2. AMENDMENT. Subsection 1 of section 57-38-30.3 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Notwithstanding the other provisions of this chapter, an individual, estate, or trust may elect to determine state income tax liability by applying the provisions of this section. Any taxpayer electing to determine his income tax liability pursuant to this section shall only be eligible for those adjustments or credits which are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return pursuant to the provisions of this chapter, but who has not computed a federal taxable income or federal income tax liability figure shall compute such a federal taxable income figure using a pro forma return pursuant to the provisions of this section in order to determine a federal income tax liability figure to be used as a starting point in computing state income tax.

SECTION 3. AMENDMENT. Subsections 1 and 4 of section 57-38-31 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Every resident individual, every fiduciary for a resident individual, estate or trust, who is required by the provisions of the United States Internal Revenue Code of 1954, as amended, to file a federal income tax return, and every individual or fiduciary who receives income derived from sources in this state, who is required by the provisions of the United States Internal Revenue Code of 1954, as amended, to file a federal income tax return, shall file an income tax return with the state tax commissioner in such form as he the commissioner may prescribe. Any person who is required to file a state income tax return but not required to compute a federal taxable income figure for federal income tax purposes shall be required to compute such a federal taxable income figure using a pro forma return pursuant to the provisions of the Internal Revenue Code of 1954, as amended, in order to determine a starting point for the computation of state income tax. Any person required to file an income tax return pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, with respect to income that is exempt from taxation under this chapter either because it cannot be constitutionally taxed or because it is exempt by any provision of law shall file a return prescribed by the tax commissioner in such form as will permit computation of the tax liability under this chapter on only that part of the income which is subject to taxation pursuant to the provisions of this chapter, provided that such person elects to use that form of return rather than any other form of return that may be prescribed. The return shall be signed by the person required to make it and shall contain a written declaration that it is made and subscribed under penalties of perjury.
4. Every fiduciary subject to taxation under the provisions of this chapter shall make a return for the individual, estate or trust for which he acts, if he is required to make a return pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended; the return shall be signed by the person required to make it and shall contain a written declaration that it is made and subscribed under penalties of perjury.

SECTION 4. AMENDMENT. Section 57-38-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-32. Duty of corporations to make returns. Each corporation that receives income from the sources designated in section 57-38-30 and which is, whether or not required to file an income tax return pursuant to the provisions of the United States Internal Revenue

Code of 1954, as amended, shall, unless exempted by the provisions of section 57-38-09, make a return in such form as the tax commissioner may prescribe, stating specifically such facts as the tax commissioner may require for the purpose of making any computation required by this chapter. Any corporation which is required to file a state income tax return but not required to compute a federal taxable income figure for federal income tax purposes shall be required to compute such a federal taxable income figure using a pro forma return pursuant to the provisions of the Internal Revenue Code of 1954, as amended, in order to determine a starting point for the computation of state income tax. Any foreign loan and investment company engaged in business in this state, and whose income in this state consists solely of income exempt from taxation under this chapter, need not file an annual report unless specially requested to do so by the tax commissioner, but may file in lieu thereof an affidavit claiming exemption under this chapter. The return shall be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized so to act and it and any other declaration, statement or document required to be made shall contain or be verified by a written declaration that it is made under the penalties of perjury.

Approved April 6, 1983

CHAPTER 625

HOUSE BILL NO. 1605
(Koski)

INCOME TAX FEDERALIZATION

AN ACT to amend and reenact subsection 21 of section 57-38-01 of the North Dakota Century Code, relating to updating federalizing of the income tax law; and to provide for an effective date.

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 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21. "Federal Internal Revenue Code of 1954, as amended", "United States Internal Revenue Code of 1954, as amended", and "Internal Revenue Code of 1954, as amended", mean the United States Internal Revenue Code of 1954, as amended to and including ~~December 31, 1980~~ March 11, 1983, and shall be effective for all taxable years beginning after December 31, 1982.
- a. As to individuals, estates, trusts, and corporations, the crude oil windfall profit tax enacted as Public Law No. 96-223 [94 Stat. 229] shall be allowable as a deduction in computing taxable income for the first taxable year only, beginning on or after January 1, 1980; provided, that the deduction for a corporation shall not exceed one million dollars.
- b. As to individuals, estates, trusts, and corporations, Except that the provisions of the Installment Sales Revision Act of 1980 enacted as Public Law No. 96-471 are hereby retroactively incorporated for the purposes of this chapter and section 168(f)(8) of the Internal Revenue Code, are not adopted in those instances where the minimum investment by the lessor is less than one hundred percent for the purpose of computing North Dakota taxable income for the first individuals, estates, trusts, and corporations for taxable year only, years beginning on or after January 1, 1980 1983. Therefore, federal taxable income must be

increased, or decreased, as the case may be, to reflect the adoption or nonadoption of the provisions of section 168(f)(8) of the Internal Revenue Code, and such adjustments must be made before computing income subject to apportionment.

- c. Except that the deductions provided by the cost recovery provisions enacted as section 168 of the Internal Revenue Code, other than subsection(f)(8), cannot exceed seventy-five percent for the first taxable year beginning after December 31, 1982, and cannot exceed eighty-five percent for each of the next two taxable years beginning after December 31, 1983, for the purpose of computing North Dakota taxable income by individuals, estates, trusts, and corporations. Therefore, for the taxable year beginning after December 31, 1982, federal taxable income must be increased by twenty-five percent of any ACRS depreciation deducted in that taxable year for federal income tax purposes, and for each of the next two taxable years beginning after December 31, 1983, federal taxable income must be increased by fifteen percent of any ACRS depreciation deducted in each of the respective taxable years for federal income tax purposes. Provided, that one-half of the amount not allowed as a deduction for the taxable year beginning after December 31, 1982, may be deducted in each of the next two taxable years beginning after December 31, 1985, and one-half of the amount not allowed as a deduction for the taxable year beginning after December 31, 1983, may be deducted in each of the next two years beginning after December 31, 1987, and one-half of the amount not allowed as a deduction for the taxable year beginning after December 31, 1984, may be deducted in each of the next two taxable years beginning after December 31, 1989. All such adjustments must be made before computing income subject to apportionment.
- d. Provided that the depreciation adjustments allowed in subsection c above shall be limited to those eligible assets acquired during taxable years beginning after December 31, 1982. Acquisitions made before taxable years beginning January 1, 1983 must be depreciated pursuant to the methods permissible under Internal Revenue Code provisions in effect prior to January 1, 1981.

Approved April 28, 1983

CHAPTER 626

SENATE BILL NO. 2347
(Senators Barth, Bakewell, Krauter)
(Representatives Linderman, W. Meyer, Gullickson)

BEGINNING FARMER INTEREST AND RENTAL INCOME DEDUCTION

AN ACT to amend and reenact subdivision m of subsection 1 of section 57-38-01.2, subsection 2 of section 57-38-67, and section 57-38-70 of the North Dakota Century Code, relating to definition of a beginning farmer and terms of qualifying contracts for deed.

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

SECTION 1. AMENDMENT. Subdivision m of subsection 1 of section 57-38-01.2 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- m. Reduced by the amount of interest received during that taxable year on a contract for deed on the sale of eighty or more acres [32.37 or more hectares] of agricultural land to a beginning farmer. The contract for deed must extend for not less than ~~thirteen~~ ten years and have an annual interest rate equal to or less than the minimum rate allowed by the internal revenue service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a notarized statement from the buyer ~~containing a list of the buyer's assets and debts and giving the buyer's net worth certifying that he meets all requirements of the beginning farmer definition~~, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the true and full value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including his dependents and spouse, if any, for purposes of this subdivision, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture,

appliances, musical instruments, clothing, and other personal belongings shall not be included. This statement shall be filed along with the income tax return. For the purposes of this subdivision, "beginning farmer" means any person who:

- (1) Is a resident of this state.
- (2) Receives more than half his gross annual income from farming, unless the person initially commences farming during the tax year for which an adjustment will be claimed under this subdivision.
- (3) Intends to use any farmland that he wishes to purchase or rent for agricultural purposes.
- (4) Has had adequate training, by experience or education, in the type of farming operation which he wishes to begin.
- (5) Has, including the net worth of his dependents and spouse, if any, a net worth of less than one hundred thousand dollars.

SECTION 2. AMENDMENT. Subsection 2 of section 57-38-67 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Beginning farmer" means any person who:
 - a. Is a resident of this state.
 - b. Receives more than half his gross annual income from farming, unless the person initially commences farming during the tax year for which a deduction will be claimed under sections 57-38-67 through 57-38-70.
 - c. Intends to use any farmland that he wishes to purchase or rent for agricultural purposes.
 - d. Has had adequate training, by experience or education, in the type of farming operation which he wishes to begin on the purchased or rented land referred to in subdivision c.
 - e. Has, including his dependents and spouse, if any, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

SECTION 3. AMENDMENT. Section 57-38-70 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-70. Claim for income tax deduction for land sale or rental to a beginning farmer. In order for a taxpayer to qualify for the deductions provided in sections 57-38-67 through 57-38-70, the taxpayer shall file with his state income tax return a notarized statement from the beginning farmer who purchased or rented land from him ~~containing a list of the assets, debts, and net worth of the beginning farmer certifying that he meets all requirements of the beginning farmer definition,~~ together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the true and full value on the most recent real estate tax statement for that particular piece of property. In order for a taxpayer to qualify for the deduction for rental income provided in section 57-38-69, the taxpayer shall certify on his tax return that any rental arrangement with any other person was not canceled for the purpose of qualifying for this deduction.

Approved March 23, 1983

CHAPTER 627

SENATE BILL NO. 2420
(Senators Leibhan, Lodoen, Satrom)
(Representatives B. Larson, Timm)

INTEREST INCOME DEDUCTION FOR INCOME TAX

AN ACT to amend and reenact subdivision o 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.

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

SECTION 1. AMENDMENT. Subdivision o of subsection 1 of section 57-38-01.2 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- o. Reduced by any amount, up to a maximum of ~~two~~ three hundred dollars received by any person or ~~four~~ six hundred dollars if a joint return is filed, as interest earned from a financial institution located in this state. For purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions.

Approved March 10, 1983

CHAPTER 628

HOUSE BILL NO. 1618
(Boyle)

SUBCHAPTER S ELECTION RECOGNITION

AN ACT to amend and reenact section 57-38-01.4 of the North Dakota Century Code, relating to income tax; to repeal section 57-38-01.12 of the North Dakota Century Code, relating to reporting of investment credit carryback for prior taxable years; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 57-38-01.4 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-01.4. Recognition of subchapter S election.

1. For the purposes of this chapter, any person as defined in section 57-38-01 and required to file a North Dakota income tax return who makes an election under subchapter S of the Internal Revenue Code of 1954, as amended, for federal income tax purposes shall have such status recognized and such person's taxable income shall be computed as provided in subchapter S of the Internal Revenue Code of 1954, as amended, with the adjustments allowed by this chapter or other provisions of law.
2. Notwithstanding the provisions of subsection 1, any person therein described who makes an election under subchapter S of the Internal Revenue Code of 1954, as amended, may elect to have such status not recognized for purposes of filing returns pursuant to this chapter. In such case, the taxable income of the corporation shall be reported as is the taxable income of other corporations that are subject to the provisions of this chapter. The taxable income of each shareholder of such corporation shall be reduced by the amount of federal income taxes paid by the shareholder on that part of the income or gain of the corporation received by the shareholder when received as a dividend pursuant to subdivision 1 of subsection 1 of

section 57-38-01.2 or subdivision g of subsection 1 of section 57-38-01.3. When no election is made for state income tax purposes, both the shareholders and the corporation shall make adjustments, increases, or decreases to federal taxable income so that the state taxable income figure is determined as though no election had been made for either state or federal income tax filing purposes.

- 3- These persons who were required for taxable years beginning prior to January 1, 1969, to file as subchapter S taxpayers under subsection 1 may elect for taxable years beginning on or after January 1, 1969, to have such status not recognized for purposes of filing returns pursuant to this chapter, provided such election is made, on a form prescribed by the tax commissioner, prior to the end of the taxable year that begins in 1969.
- 4- If an election to have such subchapter S status recognized or not recognized is made under subsection 2 or 3, a termination or revocation of such status or a subsequent election relating thereto shall be made only in accordance with the conditions and requirements prescribed for termination, revocation and subsequent elections under subchapter S of the Internal Revenue Code of 1954, as amended.
- 5- The distributed and undistributed taxable income of an electing small business corporation for federal and state income tax purposes derived from or connected with sources in this state does constitute income derived from sources within this state for a nonresident person who is a shareholder of such a corporation, and a net operating loss of such corporation derived from or connected with sources in this state does constitute a loss or deduction connected with sources in this state for such a nonresident individual. '

SECTION 2. REPEAL. Section 57-38-01.12 of the 1981 Supplement to the North Dakota Century Code is hereby repealed.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1982.

Approved April 5, 1983

CHAPTER 629

SENATE BILL NO. 2371
(Senators Nething, Tennesos)
(Representatives Unhjem, Koski)

DEDUCTION OF CONTRIBUTION TO NONPROFIT INSTITUTION

AN ACT to create and enact a new subsection to section 57-38-01.7 of the North Dakota Century Code, relating to the time allowed for deduction of charitable contributions to nonprofit private institutions of higher education; and to provide an effective date.

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

SECTION 1. A new subsection to section 57-38-01.7 of the North Dakota Century Code is hereby created and enacted to read as follows:

For purposes of this section, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed in section 57-38-34 for filing the return for that taxable year, including extensions granted by the commissioner.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1982.

Approved March 18, 1983

CHAPTER 630

HOUSE BILL NO. 1372
(Sinner)

INCOME TAX CREDIT FOR TAXES PAID TO ANOTHER STATE

AN ACT to amend and reenact subsections 2 and 6 of section 57-38-04 of the North Dakota Century Code, relating to computation and limitation of credit for taxes paid to another state; to repeal sections 57-38-01.5, 57-38-01.6, 57-38-01.9, 57-38-01.10, 57-38-01.11, and 57-38-52 of the North Dakota Century Code, relating to income tax; and to provide an effective date.

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

SECTION 1. AMENDMENT. Subsections 2 and 6 of section 57-38-04 of the 1981 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. Except as provided in subsection 1 of this section:

- a. Income received from personal or professional services performed by residents of this state, regardless of where such services are performed, and income received by residents of this state from intangible personal property shall be assigned to this state. If a tax is paid to another state or territory of the United States or to the District of Columbia on any income assigned to this state under this subsection, a credit for any tax so paid may be deducted from the tax assessed under this chapter if written proof of such payment is furnished to the tax commissioner; provided, that this credit for such tax shall not exceed the difference between (a) the amount of tax that would be the proportion of the tax otherwise due under this chapter if all of the taxpayer's income had been derived from sources within North Dakota; and (b) the amount of tax that would be due under this chapter if the income from personal or professional services performed outside of North Dakota, together with any federal income taxes paid thereon, were excluded from the computation of the North Dakota income tax that

the amount of the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's adjusted gross income as computed pursuant to the Internal Revenue Code of 1954, as amended.

- b. Notwithstanding any other provision of this chapter, the compensation received from services performed within this state by an individual who (1) performs services for a common carrier engaged in interstate transportation and (2) who resides and has his place of abode to which he customarily returns at least once a month in another state shall be excluded from income to the extent that such income is subject to an income tax imposed by the state of his residence; provided that such state allows a similar exclusion of such compensation received by residents of North Dakota for similar services performed therein, or a credit against the tax imposed on the income of residents of this state that is substantially similar in effect. For the purposes of this subdivision the words "an individual who performs services for a common carrier engaged in interstate transportation" shall be limited to an individual who performs such services for a common carrier only during the course of making regular "runs" into North Dakota or from within North Dakota to outside North Dakota, or both, on the transportation system of the common carrier.
6. a. Income and gains received by a resident of this state from tangible property not employed in the business and from tangible property employed in the business of the taxpayer, if such business consists principally of the holding of such property and the collection of income and gains therefrom, shall be assigned to this state without regard to the situs of such property.
- b. Income derived from carrying on a trade or business by residents of this state shall be assigned to this state without regard to where such trade or business is conducted.

If a tax is paid to another state or territory of the United States or to the District of Columbia on any income assigned to this state under this subsection, a credit for any tax so paid may be deducted from the tax assessed under this chapter if written proof of such payment is furnished to the tax commissioner; provided, that this credit for such tax shall not exceed the difference between (a) the amount of tax that would be proportion of the tax otherwise due under this chapter if all of the taxpayer's income had been derived from sources within North Dakota, and (b) the amount of tax that would be due under this chapter if the gains, profits or income from

property, trade or business outside of North Dakota, together with any expenses, losses or taxes (including federal income taxes) related thereto were excluded from the computation of the North Dakota income tax that the amount of the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's adjusted gross income as computed pursuant to the Internal Revenue Code of 1954, as amended.

SECTION 2. REPEAL. Section 57-38-52 of the North Dakota Century Code, and sections 57-38-01.5, 57-38-01.6, 57-38-01.9, 57-38-01.10, and 57-38-01.11 of the 1981 Supplement to the North Dakota Century Code are hereby repealed.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1982.

Approved March 17, 1983

CHAPTER 631

HOUSE BILL NO. 1399
(Representatives Sinner, Koski)
(Senator Barth)

INCOME TAX EXEMPTIONS

AN ACT to amend and reenact section 57-38-09 of the North Dakota Century Code, relating to exemptions from income tax, the taxation of unrelated income; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 57-38-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-09. Other Exempt organizations not subject to tax. The following organizations shall be exempt from taxation under this chapter:

- 1- Labor, agricultural, and horticultural organizations;
- 2- Mutual savings banks not having a capital stock represented by shares;
- 3- Banking associations organized under the laws of the United States or of the state of North Dakota located, and having their principal place of business, in this state;
- 4- Trust companies organized under the laws of the state of North Dakota located, and with their principal place of business, in this state;
- 5- Fraternal beneficiary societies, orders, or associations:
 - a- Operating under the lodge system or for the exclusive benefit of the members of the fraternity itself operating under the lodge system; or
 - b- Providing for the payment of life, sick, accident, or other benefits, to the members of such societies, orders, or associations, or their dependents;

- 6- Repealed by S-B- 1961, ch. 357, § 11;
- 7- Cemetery companies owned and operated exclusively for the benefit of their members;
- 8- Corporations organized and operating exclusively for religious, charitable, scientific, or educational purposes; or for the prevention of cruelty to children or animals; no part of the net earnings of which inure to the benefit of any private stockholder or individual;
- 9- Business leagues and commercial clubs not organized for profit; and no part of the net income of which inures to the benefit of any private stockholder or individual;
- 10- Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare;
- 11- Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes; no part of the net earnings of which inures to the benefit of any private stockholder or member;
- 12- Farmers¹, and other mutual hail, cyclone, or fire insurance companies, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations of a purely local character; the income of which consists solely of assessments or fees collected from members for the sole purpose of meeting expenses;
- 13- Farmers¹, potato growers¹, or like organizations, organized and operated as sales agents for the purpose of marketing the products of members and turning back to them the proceeds of sale, less the necessary expenses, on the basis of the quantity of produce furnished by them;
- 14- Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this chapter;
- 15- Insurance
 1. A person or organization exempt from federal income taxation under the provisions of the Internal Revenue Code of 1954, as amended, shall also be exempt from the tax imposed by this chapter in each year such person or organization satisfies the requirements of the Internal Revenue Code of 1954, as amended, for exemption from federal income taxation. If the exemption applicable to any person or organization under the provisions of the Internal Revenue Code of 1954, as amended, is limited or

qualified in any manner, the exemption from taxes imposed by this section shall be limited or qualified in a similar manner.

2. Notwithstanding the provisions of subsection 1, the unrelated business taxable income, as computed under the provisions of the Internal Revenue Code of 1954, as amended, of any person or organization otherwise exempt from the tax imposed by this chapter and subject to the tax imposed on unrelated business income by the Internal Revenue Code of 1954, as amended, shall be subject to the tax which would have been imposed by this chapter but for the provisions of subsection 1.
3. In addition to the persons or organizations exempt from federal income taxation under the provisions of the Internal Revenue Code of 1954, as amended, there shall also be exempt from the tax imposed by this chapter insurance companies doing business in the state and paying a tax upon the gross amount of premiums received in the state.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1982.

Approved March 17, 1983

CHAPTER 632

SENATE BILL NO. 2497
(Nething, Nelson, Goodman)
(Approved by the Committee on Delayed Bills)

INCOME TAX RATE AND ENERGY COST CREDIT

AN ACT to provide for a contingent sales and use tax increase; to amend and reenact sections 57-38-29, 57-38-30, and subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to the rate of income tax on individuals and corporations; to repeal section 57-38-29.1 of the North Dakota Century Code, relating to the energy cost relief credit allowed to individual income tax filers; and to provide an effective date and an expiration date.

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

SECTION 1. Contingent sales and use tax increase.

1. The director of the office of management and budget shall consult the tax commissioner and state treasurer prior to May 10, 1984, and determine general fund revenue receipts for the period from July 1, 1983, through April 30, 1984. The director of the office of management and budget shall certify the amount of receipts determined to the budget section of the legislative council on or before May 15, 1984.
2. If the amount certified under subsection 1 is less than four hundred million dollars the rate of sales and use taxes on all items taxable under subsection 1 of section 57-39.2-02.1 or subsection 1 of section 57-40.2-02.1 shall be increased by one percentage point for the period beginning July 1, 1984, and ending June 30, 1985, unless the budget section of the legislative council determines pursuant to subsection 3 that a tax increase is not necessary.
3. The decision of the budget section of the legislative council under subsection 2 shall be based upon the following guidelines and considerations:

- a. A review of the effect on projections by the office of management and budget of the state general fund balance on June 30, 1985, if the tax increase provided in this section does not become effective.
 - b. Any revenue collections that will be deposited during the remainder of the biennium, including effects on cash flow.
 - c. The effect on the economic welfare of the state and its citizens of the tax increase provided in this section.
 - d. The effect of changes in oil prices or other economic indicators on projections of revenue for the remainder of the biennium.
4. For the purposes of administering this section, the provisions of chapters 57-39.2 and 57-40.2 concerning the imposition, collection, distribution, and administration of the sales and use tax laws shall govern the taxes levied pursuant to this section.
 5. The tax commissioner is authorized to administratively adjust the bracket system contained in section 57-39.2-08.2 to reflect any change in tax rates which is caused by operation of this section.

SECTION 2. AMENDMENT. Section 57-38-29 of the 1981 Supplement to 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 three thousand dollars, a tax of ~~one~~ two percent.
2. On taxable income in excess of three thousand dollars and not in excess of five thousand dollars, a tax of ~~two~~ three percent.
3. On taxable income in excess of five thousand dollars and not in excess of eight thousand dollars, a tax of ~~three~~ four percent.
4. On taxable income in excess of eight thousand dollars and not in excess of ~~twelve~~ fifteen thousand dollars, a tax of ~~four~~ five percent.

5. On taxable income in excess of ~~twelve fifteen~~ thousand dollars and not in excess of ~~thirty~~ twenty-five thousand dollars, a tax of ~~five six~~ percent.
6. On taxable income in excess of ~~thirty~~ twenty-five thousand dollars and not in excess of thirty-five thousand dollars, a tax of seven ~~and one-half~~ percent.
7. On taxable income in excess of thirty-five thousand dollars and not in excess of fifty thousand dollars, a tax of eight percent.
8. On taxable income in excess of fifty thousand dollars, a tax of nine percent.

SECTION 3. AMENDMENT. Section 57-38-30 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-30. Imposition and rate of tax on corporations. A tax is hereby imposed upon the taxable income of every domestic and foreign corporation received from the sources described in sections 57-38-12, 57-38-13, and 57-38-14, which shall be levied, collected, and paid annually as in this chapter provided, and which shall be computed at the following rates:

1. For the first three thousand dollars of taxable income, at the rate of ~~two~~ three percent.
2. On all taxable income above three thousand dollars and not in excess of eight thousand dollars, at the rate of ~~three~~ four and one-half percent.
3. On all taxable income above eight thousand dollars and not in excess of twenty thousand dollars, at the rate of ~~four~~ six percent.
4. On all taxable income above twenty thousand dollars, and not in excess of thirty thousand dollars, at the rate of ~~five~~ seven and one-half percent.
5. On all taxable income above thirty thousand dollars, and not in excess of fifty thousand dollars, at the rate of ~~six~~ nine percent.
6. On all taxable income above fifty thousand dollars, at the rate of ~~seven~~ ten and one-half percent.

SECTION 4. AMENDMENT. Subsection 2 of section 57-38-30.3 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident

and nonresident individual, estate, and trust. This tax shall be ~~seven~~ ten and one-half percent of the individual's, estate's, or trust's adjusted federal income tax liability for the taxable year.

SECTION 5. REPEAL. Section 57-38-29.1 of the 1981 Supplement to the North Dakota Century Code is hereby repealed.

SECTION 6. EFFECTIVE DATE - EXPIRATION DATE. Sections 2, 3, 4, and 5 of this Act are effective for the first three taxable years beginning after December 31, 1982, and thereafter are ineffective. The provisions of sections 57-38-29, 57-38-29.1, 57-38-30, and subsection 2 of section 57-38-30.3 as those sections existed on December 31, 1982, shall be in effect after the taxable years for which this Act is effective.

Approved April 28, 1983

CHAPTER 633

SENATE BILL NO. 2323
(Barth)

ENERGY COST RELIEF CREDIT

AN ACT to amend and reenact section 57-38-29.1 of the North Dakota Century Code, relating to the energy cost relief credit; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 57-38-29.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-29.1. Energy cost relief credit. Except as limited herein, there shall be allowed to individuals, estates, and trusts required to file an income tax return, a credit equal to the tax liability imposed by section 57-38-29. This credit shall be placed on the state income tax return as a separate line item entitled "energy cost relief credit" which shall follow the computation of tax liability pursuant to the provisions of chapter 57-38. The income tax liability computed on the income tax return shall be reduced by the amount of this credit; provided, that the maximum credit deducted on any return shall not exceed one hundred dollars for any taxable year. For nonresidents, the credit is limited to the ratio that a nonresident's North Dakota adjusted gross income bears to the nonresident's federal adjusted gross income.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1982.

Approved March 15, 1983

CHAPTER 634

SENATE BILL NO. 2403
(Goodman)

ADDITIONAL INCOME TAX

AN ACT to amend and reenact section 57-38-33 of the North Dakota Century Code, relating to assessment of additional income tax.

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

SECTION 1. AMENDMENT. Section 57-38-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-33. Understatement or failure to file return Failure to complete return or supply information. If the tax commissioner shall be of the opinion that any taxpayer person has failed to file a return, or to include in a return as filed, or to provide during the course of an audit, either intentionally or through error or for any other reason, items of information necessary to properly determine North Dakota taxable income, he the tax commissioner may require from such taxpayer a person an amended return, or such supplementary return, under oath, information as is necessary to properly and accurately determine a person's North Dakota taxable income, in such form as he the tax commissioner shall prescribe, of all the items of income which the taxpayer received during the year for which the return is made, whether or not taxable under the provisions of this chapter. If from a supplementary return, or otherwise the person fails or refuses to file the amended return or to furnish the supplementary information requested, the tax commissioner finds that any items of income taxable under this chapter have been omitted from the original return, he may require the items so omitted to be disclosed to him under oath of the taxpayer and to be added to the original return, after thirty days' notice, determine the North Dakota taxable income of the person from the best information available and assess any tax due, including interest and penalty. Such supplementary return and the correction of the original return shall not relieve the taxpayer from any of the penalties to which he or it may be liable under the provisions of this chapter. The decision of the tax commissioner to assess the tax, including interest and penalty pursuant to section 57-38-45, shall be final and payment of the amount due shall be made upon demand.

Approved March 15, 1983

CHAPTER 635

SENATE BILL NO. 2405
(Dotzenrod)

INCOME TAX INTEREST AND LATE FILING

AN ACT to amend and reenact subsection 5 of section 57-38-34, and section 57-38-45 of the North Dakota Century Code, relating to interest and penalty for failure to timely file income tax returns; and to provide an effective date.

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

SECTION 1. AMENDMENT. Subsection 5 of section 57-38-34 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 twelve 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. Section 57-38-45 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-45. Interest and penalties. For failure to make a return or to pay any tax within the time required by this chapter, a taxpayer shall be subjected to penalties and interest as follows:

1. In addition to other increases to tax and penalty prescribed in this chapter a taxpayer shall be subject to interest as follows:
 - a. 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 twelve 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.
- b. If any amount of tax imposed by this chapter, including tax withheld by an employer, is not paid on or before the due date or extended due date for such payment, there shall be added to the tax interest at the rate of one percent of such tax for each month or fraction of a month during which the tax remains unpaid, computed from the due date or extended due date of the return to the date paid excepting the month in which the return was required to be filed or the tax became due.
- c. If upon audit an additional tax is found to be due, there shall be added to the additional tax due interest at the rate of one percent of such additional tax for each month or fraction of a month during which the tax remains unpaid, computed from the due date or extended due date of the return to the date paid, excepting the month in which the return was required to be filed or the tax became due.
- d. If the mathematical verification of a taxpayer's return results in additional tax due, there shall be added to the additional tax interest at the rate of one percent of such additional tax due for each month or fraction of a month during which the tax remains unpaid, computed from the due date or extended due date of the return to the date paid, excepting the month in which the return was required to be filed or the tax became due.
- e. Notwithstanding the interest rates provided for in the preceding subsections, or other sections of this chapter, if the prime rate charged by the Bank of North Dakota on September fifteenth of any year is fifteen percent or more per annum, the interest rate to be charged per annum or for each month or fraction thereof, as the case may be, for the entire succeeding calendar year shall be eighteen percent per annum or one and one-half percent per month.
2. In addition to the interest prescribed in this chapter, a taxpayer shall be subject to additions to tax and penalty as follows:
- a. If any taxpayer, without intent to evade any tax imposed by this chapter, shall fail to file a pay the amount shown as tax due on any return of income or pay a tax if one is due at the time required by or under the provisions of this chapter, but voluntarily shall file a correct return of income or pay the tax due within sixty days thereafter, or if upon audit, an

additional tax is found to be due, including tax withheld by an employer, filed on or before the due date or extended due date prescribed therefor, there shall be added to the tax a penalty of five percent thereof, or one dollar five dollars, whichever is greater, plus interest of one percent of such tax for each month or fraction of a month during which the tax remains unpaid, excepting the first month after such return was required to be filed or such tax became due.

- 2- b. If any taxpayer does not voluntarily, without intent to evade any tax imposed by this chapter, shall fail to file a return of income within sixty days after the time required by or under the provisions of this chapter, and after notice by the tax commissioner, he, including the employer's withheld tax return, on or before the due date or extended due date prescribed therefor, there shall be subject to added a civil penalty of one hundred dollars or ten equal to five percent of the tax due, whichever is greater, assessed by the tax commissioner, and shall pay interest on the tax due at the rate of one percent for each month or fraction of a month from the time the tax originally was due until the date of payment required to be reported, or five dollars, whichever is greater, if the failure is for not more than one month, counting each fraction of a month as an entire month, with an additional five percent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent in the aggregate.
- c. If upon audit of a taxpayer's return, including tax withheld by an employer, an additional tax is found to be due, there shall be added to the tax penalty as prescribed in subdivisions a or b of this subsection.
- d. If the mathematical verification of a taxpayer's return, including tax withheld by an employer, results in additional tax due, there shall be added to the tax penalty as prescribed in subdivisions a or b of this subsection.
3. Any person ~~or~~ including any officer or employee of any corporation or any member or employee of any partnership who, with intent to evade any requirement of this chapter, shall fail to pay any tax, or to make, sign, or verify any return, or to supply any information required by law, or under the provisions of this chapter, or who with like intent shall make, render, sign, or verify any false or fraudulent information, shall be liable to a penalty of not more than one thousand dollars to be recovered by the attorney general, in the name of the state, by action in

any court of competent jurisdiction. He also Such person shall also be guilty of a class A misdemeanor.

4. In case any person or any corporation fails to pay any tax, addition to tax, interest, or penalty imposed by this chapter within thirty days after notice of the amount of the tax or penalty which is due has been mailed from the office of the tax commissioner, the attorney general shall bring action for the recovery of the amount of the tax, addition to tax, interest, or penalty, and interest which may be due, in the name of the state, in any court of competent jurisdiction.
5. The tax commissioner may for good cause shown waive all or any part of any civil penalty or interest that attached pursuant to the provisions of this chapter. The provisions of this subsection shall be effective for all returns filed prior to and after December 31, 1966.
6. If any taxpayer who has failed to file a return or who has filed an incorrect or insufficient return and has been notified by the tax commissioner of his the delinquency, refuses or neglects within thirty days after such notice to file a proper return, or files a fraudulent return, the tax commissioner shall determine the income of such taxpayer according to his the best information and belief available, and shall assess the same tax at not more than double the amount so determined. The appropriate interest and penalty prescribed in subsections 1 and 2 of this section shall also be added.

SECTION 3. EFFECTIVE DATE. The provisions of sections 1 and 2 of this Act are effective for all interest and penalty assessments to be made after July 1, 1983.

Approved March 15, 1983

CHAPTER 636

HOUSE BILL NO. 1519
(Aubol)

INCOME TAX MINIMUM REFUND

AN ACT to amend and reenact sections 57-38-35.1 and 57-38-61 of the North Dakota Century Code, relating to minimum refunds, collection and application of refunds.

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

SECTION 1. AMENDMENT. Section 57-38-35.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-35.1. Minimum refunds and collections - Application of refunds.

1. No ~~income tax~~ refunds shall be made by the tax commissioner to any taxpayer unless the amount to be refunded ~~shall exceed one dollar~~, including interest, is at least five dollars.
2. No remittance of ~~income tax~~ need be made nor any assessment or collection of tax should be made unless the amount ~~exceeds one dollar~~, is at least five dollars, including penalties and interest.
3. All refunds and credits for overpayment to any taxpayer, including excess income tax withheld or overpayment of estimated tax, may be applied to payment of taxpayer's delinquent income taxes unpaid tax, interest, or penalty or delayed until taxpayer's delinquent returns have been filed.
4. Interest of eleven percent per annum shall be allowed and paid upon any overpayment of tax from sixty days after the due date of the return or after the date such return was filed or after the date the tax due was fully paid, whichever comes later, to the date of the refund. ~~No remittance of interest on refunds need be made unless the amount of interest exceeds one dollar.~~

5. If the amount of tax imposed by this chapter is reduced by reason of a carryback of a net operating loss or net capital loss, the interest in this section shall not start accruing until after the close of the taxable year in which the net operating loss or net capital loss occurred.

SECTION 2. AMENDMENT. Section 57-38-61 of the 1981 Supplement to 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, 57-38-39, 57-38-40, 57-38-44, 57-38-45, 57-38-46, 57-38-47, 57-38-52, 57-38-53, 57-38-54, 57-38-55, 57-38-56, and 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.

Approved April 5, 1983

CHAPTER 637

HOUSE BILL NO. 1349
(Richard)

QUARTERLY INCOME TAX INSTALLMENTS

AN ACT to repeal section 57-38-36 of the North Dakota Century Code, relating to payment of tax in quarterly installments; and to provide an effective date.

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

SECTION 1. REPEAL. Section 57-38-36 of the 1981 Supplement to the North Dakota Century Code is hereby repealed.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1982.

Approved April 6, 1983

CHAPTER 638

SENATE BILL NO. 2400
(Dotzenrod)

INCOME TAX AUDIT, ADDITIONAL ASSESSMENT, AND PROTEST PROCEDURE

AN ACT to amend and reenact sections 57-38-38 and 57-38-39 of the North Dakota Century Code, relating to audit, assessment of additional tax, and protest procedure.

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

SECTION 1. AMENDMENT. Section 57-38-38 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-38. Tax commissioner to audit returns and assess tax.

1. Except as otherwise provided in this subsection and subsections 2, 3, 4, 5, 6, and 7 of this section, the tax commissioner shall proceed to audit the returns of taxpayers 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, provided, that as to any corporation or other person whose principal place for managing or directing its a business is outside North Dakota the tax commissioner shall have six years after the due date of the return or six years after the return was filed, whichever period expires later, to audit the return of such corporation or other person and assess any additional tax found due and to notify such corporation or other person in detail as to the reason for the assessment of the additional tax.
2. If a taxpayer person understates his taxable income as computed by this chapter by an amount which is in excess of twenty-five percent of the amount properly determined thereof, of taxable income stated in the return as filed, the additional tax determined due 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. ~~If the taxpayer a person has failed to file a return of income as required by this chapter, the tax may be assessed; or a proceeding in court for the collection of the tax due may be begun without such assessment, pursuant to section 57-38-33 or subsection 6 of section 57-38-45, or an action brought pursuant to section 57-38-47 at any time within ten years after the due date of the return, provided that no limitation of time shall apply if at the effective date of this amendment a lien has been filed and recorded pursuant to section 57-38-49.~~
4. 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.
5.
 - a. If the amount of taxable income for any year of any ~~taxpayer person~~ 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 the taxpayer person~~ shall report ~~such the~~ changed or corrected income, or the results of ~~such the~~ renegotiation, within ~~ninety thirty~~ days after the final determination of ~~such the~~ 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 the~~ determination or state wherein it is erroneous.
 - b. Any ~~taxpayer person~~ filing an amended return with such department as set forth above shall also file within ~~ninety thirty~~ days thereafter an amended state income tax return with a copy of such federal amended return with the tax commissioner. If the person files an amended return or a report disclosing changes or corrections to federal taxable income, the assessment of a deficiency may be made at any time within two years from the date such report or amended return was filed by the person, even though other time periods for the assessment of tax may have expired during the thirty-day period.

- c. Any taxpayer person 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 or refund 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 one year following the filing of such return or consent report with the tax commissioner.
6. Where before the expiration of the time prescribed in subsections 1, 2, and 3 for the assessment of tax, the tax commissioner and the taxpayer person 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.
7. The provisions of subsections 5 and 6 shall be effective for all income tax returns filed by all individuals, corporations, fiduciaries, estates and trusts for every taxable year beginning after December 31, 1966. The filing of an amended return before the expiration of the time limitation provided for in this chapter shall add an additional time period of two years for assessment of a deficiency or the issuance of a credit or refund to the time limitation still remaining as of the date of filing of the amended return.

SECTION 2. AMENDMENT. Section 57-38-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-39. Additional tax Deficiency, protest, and appeal. If upon audit, the tax commissioner finds additional tax due, as provided in section 57-38-38, the taxpayer shall be given thirty days from the date of the notice prescribed in section 57-38-38 to file objections to the additional tax and to apply for a hearing regarding the additional tax. Unless such objections are filed and a hearing requested, said tax shall become finally and irrevocably fixed. If objections are filed, and a hearing requested, the tax commissioner shall give notice of the hearing date, by registered or certified mail and at such hearing evidence may be offered to support such additional tax or prove that it is not due. The provisions of chapter 28-32 shall apply to and govern the hearing

procedure including appeals from any decision rendered by the tax commissioner-

1. When tax is understated on a return because of a mathematical or clerical error, the tax commissioner shall notify the person of the nature of the error and the amount of additional tax due. This notice is not a notice of deficiency and the person has no right to protest.
2. If upon audit the tax commissioner finds additional tax due, the tax commissioner shall notify the person of the deficiency in the tax payment. Such notice of deficiency shall be sent first-class mail and shall assess the amount of additional tax due and set forth the reasons for the increase.
3. A person shall have thirty days, ninety days if the person is outside the United States, to file a written protest objecting to the tax commissioner's assessment of additional tax due. The protest must set forth the basis for the protest and any other information which may be required by the tax commissioner. If a person fails to file a written protest within the time provided, the amount of additional tax assessed in the notice of deficiency shall become finally and irrevocably fixed. If a person protests only a portion of the tax commissioner's finding, the portion which is not protested shall become finally and irrevocably fixed.
4. If a protest is filed, the tax commissioner shall reconsider the assessment of additional tax due. The reconsideration may include further examination by the tax commissioner or his representative of a person's books, papers, records, or memoranda. The tax commissioner, upon request, may grant the person an informal conference.
5. Within a reasonable time after the protest the tax commissioner shall mail to the taxpayer a notice of reconsideration and assessment which shall respond to the person's protest and assess the amount of additional tax due. The amount set forth in that notice shall become finally and irrevocably fixed unless the person within thirty days commences formal administrative review as provided for in chapter 28-32 by the filing of a complaint.
6. Upon written request the tax commissioner may grant an extension of time to file a protest as provided for in subsection 3 of this section or an extension of time to commence formal review as provided in subsection 5.
7. In all cases where the tax commissioner finds that a person has an obligation to file an income tax return in North Dakota and has failed to do so, the tax commissioner

shall notify the person by first-class mail of the tax commissioner's finding and of the remedies provided for in sections 57-38-33, 57-38-45, and 57-38-47. The remedies provided for in the above listed sections are mutually exclusive and if a person fails to file an income tax return after being notified, the tax commissioner may elect a remedy under which to proceed. If the tax commissioner elects to take the action provided for in section 57-38-33 or subsection 6 of section 57-38-45, the amount so assessed is not reviewable.

Approved March 15, 1983

CHAPTER 639

HOUSE BILL NO. 1511
(G. Pomeroy)

INCOME TAX REFUND CLAIMS

AN ACT to amend and reenact section 57-38-40 of the North Dakota Century Code, relating to claims for refund of tax paid; and to repeal section 57-01-12 of the North Dakota Century Code, relating to approval of refunds.

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

SECTION 1. AMENDMENT. Section 57-38-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-40. Revision.

1. Except as provided in subsection 2 of this section, a taxpayer may apply to the tax commissioner for ~~revision~~ credit or refund of an overpayment of the any tax assessed at any time imposed by this chapter within three years after the due date of the return or within three years after the return was filed, whichever period expires latest last. The tax commissioner shall grant a hearing thereon, and if upon such hearing he shall determine that the tax is excessive or incorrect, he shall resettle the same according to the law and the facts and shall adjust the computation of the tax accordingly. The tax commissioner shall notify the taxpayer of his determination and shall cause to be refunded to the taxpayer the amount, if any, paid in excess of the tax found by him to be due. If the taxpayer has failed, without good cause, to file a return within the time prescribed by law, or has filed a fraudulent return within the time prescribed by law, or has failed, after notice, to file a proper return, the tax commissioner shall not reduce the tax below double the amount for which the taxpayer is found to be properly assessed. Refund claims properly verified and approved by the tax commissioner shall be audited and paid as are other claims against the state.

2. If the claim for refund relates to an overpayment attributable to a net operating loss carryback, in lieu of the three year period within which a taxpayer may apply to the tax commissioner for revision of the tax assessed as prescribed in this section, the period shall be that period which ends with the expiration of the fifteenth day of the fortieth month following the end of the taxable year of the net operating loss which results in such carryback.
3.
 - a. If a return is filed by an individual or an individual and spouse and, after the death of the individual, a refund claim is filed or becomes payable, the tax commissioner shall approve the refund for payment to the legal representative of the decedent upon application and presentation of certified copies of letters testamentary or letters of administration establishing the fiduciary relationship of the legal representative.
 - b. If the legal representative of the taxpayer has not made application for the refund of the deceased taxpayer within one year from the date of the taxpayer's death, the tax commissioner may approve the refund to any person within the classifications set out herein and with the following priority: surviving spouse, children, grandchildren, ~~ancesters of the decedent~~ parents, grandparents, and other relatives; upon proper application establishing the relationship of the claimant. Should an application be received from more than one individual in any of the classifications set out herein, the tax commissioner shall honor the earliest postmarked application which is properly filed pursuant to rules and regulations promulgated by him.
 - c. When the tax commissioner acting in good faith has approved a refund payment pursuant to the provisions of this subsection, the tax commissioner shall not be held responsible to any person or legal representative of the decedent who may have qualified to make a proper application but has failed to do so within one year from the date of death of the deceased taxpayer.
4. Every claim for credit or refund shall be made by filing with the tax commissioner an amended return, or other report as prescribed by the tax commissioner, accompanied by a statement outlining the specific grounds upon which the claim for credit or refund is based.
5. If the tax commissioner disallows a claim for credit or refund, in part or in full, the tax commissioner shall notify the taxpayer accordingly. The decision of the tax commissioner denying a claim for credit or refund is final

- and irrevocable thirty days after the date the notice is mailed to the taxpayer unless, within this thirty day period, the taxpayer has filed a written protest with the tax commissioner.
6. The protest shall set forth the grounds on which the protest is based, along with such other information as may be required by the tax commissioner. If the taxpayer has so requested, the tax commissioner may grant the taxpayer or his authorized representative an informal conference.
 7. The tax commissioner shall reconsider the denial of the claim for credit or refund after the filing of a protest. The reconsideration may include the further examination by the tax commissioner or his representative of a taxpayer's books, papers, records, or memoranda, including corporate minutes and committee notes.
 8. Within a reasonable period of time after protest the tax commissioner shall notify the taxpayer of his reconsideration of claim for credit or refund. If the decision of the tax commissioner is a denial, the decision is final and irrevocable unless the taxpayer within fifteen days following the date of the tax commissioner's decision seeks formal administrative review of the tax commissioner's reconsideration of claim for credit or refund by filing a complaint and requesting an administrative hearing. The provisions of chapter 28-32 shall apply to and govern the administrative hearing procedure, including appeals from any decision rendered by the tax commissioner. Upon written request of a taxpayer, the tax commissioner may grant a reasonable extension of time for the filing of a complaint.
 9. If the tax commissioner determines that an amount in excess of the correct amount of tax, interest, or penalty due from any person has been paid by or on behalf of such person because of income tax withheld or declaration of estimated tax, the tax commissioner may approve a refund of the excess amount which shall be paid to that person in the manner provided for payment of other claims against the state, except that it shall not be necessary to first file a claim for refund if the amount to be refunded was paid with respect to a return or report filed by such person with the tax commissioner in the form prescribed therefor.

SECTION 2. REPEAL. Section 57-01-12 of the North Dakota Century Code is hereby repealed.

Approved March 17, 1983

CHAPTER 640

SENATE BILL NO. 2327
(Matchie)

INCOME TAX INFORMATION SOURCE RETURNS

AN ACT to amend and reenact section 57-38-42 of the North Dakota Century Code, relating to information at source returns for income tax purposes and to provide for a penalty for failure to file such returns.

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

SECTION 1. AMENDMENT. Section 57-38-42 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-42. Information at the source. Information as to income shall be furnished at the source in the manner following:

1. Every individual, partnership, corporation, joint stock company, or association, or insurance company, a resident of, or having a place of business in, this state, in whatever capacity acting, including lessees and mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state or of any state institution, or of any political subdivision within the state, having control, receipt, custody, disposal, or payment of interest, other than interest coupons payable to bearer, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, amounting to six hundred dollars or over in salaries or wages, and ten dollars or over of dividends or interest if an information return for such amount is also required to be filed for federal income tax purposes, and six hundred dollars or over in other payments mentioned in this chapter, paid during any year to any taxpayer, shall make a complete return thereof to the tax commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by the tax commissioner.

2. Every partnership, having a place of business in this state, shall make a return, stating specifically the items of its gross income and the deductions allowed by this chapter, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributed, and the amount of the distributive share of each individual.
3. All information returns required under subsection 1 shall be made on the basis of a calendar year for payments made during the calendar year and shall be filed with the tax commissioner on or before April fifteenth of the year following the calendar year for which made. All partnership returns required under subsection 2 shall be made on or before the fifteenth day of the fourth month following the close of the fiscal year of the partnership required to make the return, or if the return is made on the basis of a calendar year, then the return shall be made on or before the fifteenth day of April in the year following the calendar year for which such return is made.
4. Each information return required under subsection 1 and each partnership return required under subsection 2 shall be signed and shall contain or be verified by a written declaration that it is made under the penalties of perjury.
5. Each information return required under subsection 1 shall be deemed to be filed with the tax commissioner if the person required to make the return has filed an information report on magnetic tape with the United States internal revenue service. All such persons which have received permission from the United States internal revenue service to file on magnetic tape must notify the tax commissioner, by letter, within thirty days of obtaining such permission. This subsection is conditioned on the existence of an agreement between the state of North Dakota and the United States internal revenue service to participate in combined federal-state information reporting.
6. In case of failure to file on the date prescribed by this chapter, and after thirty days' notice by the tax commissioner, information at the source returns as required by subsection 1, the tax commissioner may assess a penalty of ten dollars for each failure to file, not to exceed two thousand dollars.

Approved April 14, 1983

CHAPTER 641

HOUSE BILL NO. 1460
(Representatives Laughlin, Richard)
(Senator Barth)

DECLARATION OF ESTIMATED INCOME

AN ACT to amend and reenact sections 57-38-62 and 57-38-63 of the North Dakota Century Code, relating to payment of income tax; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 57-38-62 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-62. Declaration of estimated income.

1. All nonresident individual taxpayers shall, and resident individual taxpayers may, at the time prescribed in this chapter, make a declaration of their estimated tax for the taxable year, containing such information as the tax commissioner may prescribe by rules and regulations, if their estimated tax due the state from all sources other than, including wages, salaries, bonuses, or other emoluments, not subject to withholding, can reasonably be expected to exceed one hundred dollars.
2. All corporate taxpayers shall, at the time prescribed in this chapter, make a declaration of their estimated tax for the taxable year containing such information as the tax commissioner may prescribe by rules and regulations, if the taxpayer's estimated tax due the state from sources or business done in this state can reasonably be expected to exceed five thousand dollars.
3. The provisions of section 57-38-45 apply in case of failure to file or pay a declaration of estimated tax as required by this chapter, or if a declaration of estimated tax for any quarter is understated or underpaid by more than ten percent.

SECTION 2. AMENDMENT. Section 57-38-63 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-63. Payment of estimated tax. No later than April fifteenth of the taxable year the taxpayer shall file the declaration of estimated tax and make payment of no less than one-quarter of the amount of tax due thereon with the tax commissioner. If at this time a payment of at least one-quarter but less than the entire amount of tax due is made by the taxpayer the balance of the tax shall then be paid in three equal installments on the fifteenth days of the following months of June, September, and January. Provided that a taxpayer having a taxable year other than a calendar year shall file a declaration of estimated tax and remit payment of tax due on the fifteenth day of the fourth, sixth, and ninth month of its taxable year, and the first month of the following taxable year.

SECTION 3. EFFECTIVE DATE. The provisions of this Act are effective for taxable years beginning after December 31, 1983.

Approved April 28, 1983

CHAPTER 642

HOUSE BILL NO. 1582
(Representative Koehn)
(Senator Wenstrom)

INCOME TAX REFUND DEBT SETOFF

AN ACT to provide for a set off of debts owed to the state of North Dakota by debtors who are due to receive income tax refunds.

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

SECTION 1. Legislative intent - Liberal construction. It is the intent of the legislative assembly to establish a policy and to provide a system whereby all claimant agencies of the state of North Dakota, in conjunction with the commissioner, shall cooperate in identifying debtors who owe money to the state through its various claimant agencies and who qualify for refunds approved by the commissioner. It is also the intent of this Act to establish procedures for setting off against any such refund the sum of any debt owed to the state. To this end, this Act should be liberally construed.

SECTION 2. Definitions. As used in this Act:

1. "Claimant agency" means the child support unit of the department of human services.
2. "Commissioner" means the North Dakota tax commissioner or his designee.
3. "Debt" means any liquidated sum due and owing any claimant agency which has accrued through contract, subrogation, tort, or operation of law, regardless of whether there is an outstanding judgment for that sum.
4. "Debtor" means any individual owing money to or having a delinquent account with any claimant agency, which obligation has not been adjudicated satisfied by court order, set aside by court order, or discharged in bankruptcy.

5. "Refund" means the North Dakota income tax refund which the commissioner determines to be due any individual taxpayer.

SECTION 3. Remedy additional. The collection remedy authorized by this Act is in addition to and not in substitution for any other remedy available by law.

SECTION 4. Collection of debts through set off.

1. A claimant agency may submit any debts in excess of twenty-five dollars to the commissioner for collection through set off, together with any information the commissioner may require, under the procedure established by this Act, except in cases where the validity of the debt is legitimately in dispute, an alternate means of collection is pending and believed to be adequate, or such collection would result in a loss of federal funds or federal assistance.
2. Upon request of a claimant agency, the commissioner shall set off any refund, as defined herein, against the sum certified by the claimant agency as provided in this Act.

SECTION 5. Procedure - Notification of taxpayer.

1. Within a time specified by the commissioner, a claimant agency seeking to collect a debt through set off shall supply the information necessary to identify each debtor whose refund is sought to be set off and certify the amount of the debt or debts owed by each such debtor.
2. If a debtor identified by a claimant agency is determined by the commissioner to be entitled to a refund of at least twenty-five dollars, the commissioner shall approve the transfer of an amount equal to the refund owed, not to exceed the amount of the claimed debt certified, to the claimant agency. When the refund owed exceeds the claimed debt, the commissioner shall send the excess amount to the debtor within a reasonable time after such excess is determined.
3. At the time of the approval of the transfer of funds to a claimant agency pursuant to subsection 2 of this section, the commissioner shall notify the claimant agency and the taxpayer or taxpayers whose refund is sought to be set off of the amount approved for set off.
4. Upon receipt of notice from the commissioner pursuant to subsection 3 of this section, the claimant agency shall provide the taxpayer with written notice setting forth:
 - a. The name of the debtor.

- b. The manner in which the debt arose.
 - c. The amount of the claimed debt.
 - d. The intention to set off the taxpayer's refund against the debt.
 - e. The amount of the refund in excess of the claimed debt.
 - f. The taxpayer's opportunity to give written notice to contest the set off within thirty days of the date of mailing of the notice.
 - g. The name and mailing address to which the application for a hearing must be sent.
 - h. The fact that failure to apply for such a hearing, in writing within the thirty-day period, will be deemed a waiver of the opportunity to contest the set off.
5. In the case of a joint return, a notice provided pursuant to subsection 4 shall also set forth:
- a. The name of the taxpayer named in the return, if any, against whom no debt is claimed.
 - b. The fact that a debt is not claimed against such taxpayer.
 - c. The fact that such taxpayer may be entitled to receive a refund if it is due him regardless of the debt asserted against his spouse.
 - d. That in order to obtain a refund due him, such taxpayer must apply, in writing, for a hearing with the claimant agency named in the notice within thirty days of the date of the mailing of the notice.
 - e. The fact that failure to apply for such a hearing within thirty days of the mailing of such notice will be deemed a waiver of the opportunity to contest the set off.
6. Upon receipt of funds transferred pursuant to subsection 2, the claimant agency shall deposit and hold such funds in an escrow account until a final determination of the validity of the debt.

SECTION 6. Hearing procedure.

1. If the claimant agency receives written application contesting the set off or the claim upon which the set off is based, it shall grant a hearing to the taxpayer to

determine whether the set off is proper or the claim is valid. If the sum asserted as due and owing is not correct, an adjustment to the claimed sum may be made.

2. No issues may be reconsidered at the hearing which have been previously litigated in a court or in any administrative proceeding.
3. Appeals from actions taken at the hearing allowed under this section shall be in accordance with the provisions of chapter 28-32.

SECTION 7. Finalization. Upon final determination of the amount of the debt due and owing by means of the procedures provided by section 6 of this Act or by the taxpayer's default through failure to comply with section 5 of this Act, mandating timely request for review, the claimant agency shall remove the amount of the debt due and owing from the escrow account and shall credit such amount to the debtor's obligation.

SECTION 8. Confidentiality exemption - Nondisclosure.

1. Notwithstanding the provisions of section 57-38-57 or other confidentiality statutes, the commissioner may provide to a claimant agency the information necessary to accomplish and effectuate the intent of this Act.
2. The information obtained by a claimant agency from the commissioner, in accordance with the provisions of this Act, shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices.
3. The commissioner may require a claimant agency to make assurances, satisfactory to the commissioner, that the agency has the ability to comply with subsection 2.

SECTION 9. Effect. When the set off authorized by this Act is exercised, the refund which is set off shall be deemed granted and paid effective the date that funds are transferred to the claimant agency.

SECTION 10. Priority of claims.

1. The commissioner may first apply any refund or credit to payment of the taxpayer's delinquent tax and may delay a transfer of funds to a claimant agency until the taxpayer's delinquent returns have been filed.
2. If more than one claimant agency asserts a debt, or if a claimant agency asserts more than one debt against a debtor, and the total amount of the debts asserted exceeds the total amount of the refund available for set off, the

commissioner shall approve the transfer of funds to claimant agencies in the following order:

- a. Debts for services or benefits otherwise paid for in whole by the state or a political subdivision thereof.
 - b. Debts for services or benefits otherwise paid for in part by the state or political subdivision thereof.
 - c. All other debts.
3. Debts within each priority classification shall be given payment priority based upon the order of receipt from claimant agencies.

Approved April 5, 1983

CHAPTER 643

HOUSE BILL NO. 1310
(Riehl)

RETAIL SALE DEFINITION

AN ACT to amend and reenact subsection 3 of section 57-39.2-01 of the North Dakota Century Code, relating to definition of "retail sale" for sales tax purposes.

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

SECTION 1. AMENDMENT. Subsection 3 of section 57-39.2-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, and communication service to retail consumers or users; the ordering, selecting, or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, tickets, or admissions to any place of amusement, athletic event, or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding, manufacturing, producing, or germination shall become an integral or an ingredient, or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property shall be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or

distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated outside of North Dakota in another state shall not be considered a taxable sale if such delivery of possession would not be treated as a taxable sale in that state. As used in this subsection the word "consumer" shall include any hospital, infirmary, sanatorium, nursing home, home for the aged, or similar institution that furnishes services to any patient or occupant. The sale of an item of tangible personal property to a purchaser who rents or leases it to a person under a finance leasing agreement over the term of which the property will be substantially consumed shall be considered a retail sale if the purchaser elects to treat it as such by paying or causing the transferor to pay the sales tax thereon to the commissioner on or before the last day on which payments may be made without penalty as provided in section 57-39.2-12.

Approved March 4, 1983

CHAPTER 644

HOUSE BILL NO. 1350
(Richard)

SALES TAX HOUSING EXEMPTION

AN ACT to amend and reenact subsection 1 of section 57-39.2-02.1 and subsection 22 of section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions for hotel or motel room and tourist court accommodations.

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

* SECTION 1. AMENDMENT. Subsection 1 of section 57-39.2-02.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes used for residential or business purposes and for sales of farm machinery and irrigation equipment used exclusively for agricultural purposes and except as otherwise expressly provided in this chapter, there is imposed a tax of three percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within the state of North Dakota of the following to consumers or users:
 - a. Tangible personal property, consisting of goods, wares, or merchandise, except mobile homes used for residential or business purposes and farm machinery and irrigation equipment used exclusively for agricultural purposes.
 - b. The furnishing or service of steam other than steam used for processing agricultural products, gas, or communication services.
 - c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity, and including the

* NOTE: Section 57-39.2-02.1 was also amended by section 1 of House Bill No. 1707, chapter 645.

playing of any machine for amusement or entertainment in response to the use of a coin.

- d. Magazines and other periodicals.
- e. The leasing or renting of a hotel, or motel, room or tourist court accommodations for periods of less than thirty consecutive calendar days or one month.
- f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under chapter 57-40.2.

SECTION 2. AMENDMENT. Subsection 22 of section 57-39.2-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 22. Gross receipts from the leasing, or renting, ~~for residential housing for periods of more than thirty consecutive days,~~ of factory manufactured homes, including mobile homes, modular living units, or sectional homes, whether or not placed on a permanent foundation or of a hotel or motel room or tourist court accommodations for residential housing for periods of thirty or more consecutive days.

Approved March 11, 1983

CHAPTER 645

HOUSE BILL NO. 1707
(Strinden, Backes)

SALES AND MOTOR VEHICLE EXCISE TAX RATES

AN ACT to amend and reenact sections 57-39.2-02.1, 57-39.2-08.2, 57-40.2-02.1, and 57-40.3-02 of the North Dakota Century Code, relating to the rate of sales tax, use tax, and motor vehicle excise tax; to repeal section 57-40.3-03, relating to the motor vehicle excise tax; to provide an effective date; and to declare an emergency.

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

* SECTION 1. AMENDMENT. Section 57-39.2-02.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-02.1. Sales tax imposed.

1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes used for residential or business purposes and for sales of farm machinery and irrigation equipment used exclusively for agricultural purposes and except as otherwise expressly provided in this chapter, there is imposed a tax of ~~three~~ four percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within the state of North Dakota of the following to consumers or users:
 - a. Tangible personal property, consisting of goods, wares, or merchandise, except mobile homes used for residential or business purposes and farm machinery and irrigation equipment used exclusively for agricultural purposes.
 - b. The furnishing or service of steam other than steam used for processing agricultural products, gas, or communication services.
 - c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts

* NOTE: Section 57-39.2-02.1 was also amended by section 1 of House Bill No. 1350, chapter 644.

charged for participation in an amusement, entertainment, or athletic activity, and including the playing of any machine for amusement or entertainment in response to the use of a coin.

- d. Magazines and other periodicals.
- e. The leasing or renting of hotel, motel, or tourist court accommodations for periods of less than thirty consecutive calendar days or one month.
- f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under chapter 57-40.2.

2. There is hereby imposed a tax of ~~two~~ three percent upon the gross receipts of retailers from all sales at retail of mobile homes used for residential or business purposes, except as provided in subsection 35 of section 57-39.2-04, and of farm machinery and irrigation equipment used exclusively for agricultural purposes, including the leasing or renting of farm machinery and irrigation equipment used exclusively for agricultural purposes within the state of North Dakota to consumers or users.

3. In the case of a contract awarded for the construction of highways, roads, streets, bridges, and buildings prior to April 1, 1983, the contractor receiving the award shall be liable only for the sales or use tax at the rate of tax in effect on the date of contract.

SECTION 2. AMENDMENT. Section 57-39.2-08.2 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-08.2. Sales tax to be added to purchase price and be a debt.

1. Except as otherwise provided in subsection 2, retailers shall add the tax imposed under this chapter, or the average equivalent thereof, to the sales price or charge, and when added, such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to the retailer until paid, and shall be recoverable at law in the same manner as other debts. In adding such tax to the price or charge, retailers shall adopt the following bracket system for the application of the tax:

\$0.01 to \$0.15	no tax
\$0.16 to \$0.33	\$0.311¢ tax
\$0.34	\$0.32 to \$0.67	\$0.51 . 2¢ tax
\$0.68	\$0.52 to \$1.00	\$0.71 . 3¢ tax
\$0.72 to \$1.00	4¢ tax
Each additional \$1.00	- 3¢	<u>4¢</u> additional tax, or

- each additional ~~33¢~~ 25¢ or fraction thereof over \$1.00 - 1¢ additional tax.
2. On retail sales of mobile homes used for residential or business purposes, except as provided in subsection 35 of section 57-39.2-04, and of farm machinery and irrigation equipment used exclusively for agricultural purposes, retailers shall add the tax imposed under this chapter, or the average equivalent thereof, to the sales price or charge, and when added, such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to the retailer until paid, and shall be recoverable at law in the same manner as other debts. In adding such tax to the price or charge, retailers shall add to it ~~two~~ three percent of such price or charge.

SECTION 3. AMENDMENT. Section 57-40.2-02.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-02.1. Use tax imposed.

1. Except as otherwise expressly provided in subsection 2 for purchases of mobile homes used for residential or business purposes and for purchases of farm machinery and irrigation equipment used exclusively for agricultural purposes, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of ~~three~~ four percent of the purchase price of such property. Except as limited by section 57-40.2-11, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of ~~three~~ four percent of the fair market value of such property at the time it was brought into this state.
2. An excise tax is imposed on the storage, use, or consumption in this state of mobile homes used for residential or business purposes, except as provided in subsection 19 of section 57-40.2-04, and of farm machinery and irrigation equipment used exclusively for agricultural purposes purchased at retail for storage, use, or consumption in this state at the rate of ~~two~~ three percent of the purchase price thereof. Except as limited by section 57-40.2-11, and except as provided in subsection 35 of section 57-39.2-04, an excise tax is imposed on the storage, use, or consumption in this state of mobile homes used for residential or business purposes and of farm machinery and irrigation equipment used exclusively for agricultural purposes not originally purchased for storage, use, or consumption in this state at the rate of ~~two~~ three percent of the fair market value of such mobile homes used for residential or business purposes and of

such farm machinery and irrigation equipment used exclusively for agricultural purposes at the time it was brought into this state.

3. In the case of a contract awarded for the construction of highways, roads, streets, bridges, and buildings prior to April 1, 1983, the contractor receiving the award shall be liable only for the sales or use tax at the rate of tax in effect on the date of contract.

SECTION 4. AMENDMENT. Section 57-40.3-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.3-02. Tax imposed. There is hereby imposed an excise tax at the rate of ~~two and one-quarter~~ four percent on the purchase price of any motor vehicle purchased or acquired either in or outside of the state of North Dakota for use on the streets and highways of this state and required to be registered under the laws of this state.

SECTION 5. REPEAL. Section 57-40.3-03 of the North Dakota Century Code is hereby repealed.

SECTION 6. EFFECTIVE DATE. This Act is effective for taxable quarterly periods beginning after March 31, 1983.

SECTION 7. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 17, 1983

PROPERTY OF
STATE DEPARTMENT OF HEALTH
BISMARCK, NORTH DAKOTA 58505

CHAPTER 646

HOUSE BILL NO. 1711
(Strinden, Backes)

SALES AND USE TAX ON ALCOHOLIC BEVERAGES

AN ACT to amend and reenact sections 57-39.2-03.2 and 57-40.2-03.2 of the North Dakota Century Code, relating to the rate of sales and use tax on alcoholic beverages; to provide an effective date; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 57-39.2-03.2 of the 1981 Supplement to 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. Notwithstanding any other provision of law, there is imposed a tax of five percent on the gross receipts of retailers from all sales at retail of alcoholic beverages, which is in lieu of and not in addition to any other tax imposed by this chapter.

SECTION 2. AMENDMENT. Section 57-40.2-03.2 of the 1981 Supplement to 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. Notwithstanding any other provision of law, there is imposed a tax of five percent on the storage, use, or consumption in this state of alcoholic beverages, which is in lieu of and not in addition to any other tax imposed by this chapter.

SECTION 3. EFFECTIVE DATE. This Act becomes effective on April 1, 1983.

SECTION 4. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 16, 1983

CHAPTER 647

HOUSE BILL NO. 1518
(Goetz)

AIRCRAFT EXCISE TAX EXEMPTION

AN ACT to create and enact a new subsection to section 57-39.2-04 and a new chapter to title 57 of the North Dakota Century Code, relating to a sales tax exemption for the gross receipts from sales of aircraft and the creation of an aircraft excise tax; to amend and reenact section 2-05-03 of the North Dakota Century Code, authorizing the director of aeronautics to act as the agent of the state tax commissioner for purposes of enforcement of the aircraft excise tax; to provide a penalty; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 2-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-05-03. Powers and duties of director. The director shall be the executive officer of the commission. He shall attend all meetings of the commission, but shall have no voting power. At the direction of the commission, he shall, together with the chairman of the commission, execute all contracts entered into by the commission which are legally authorized. The director shall appoint, subject to the approval of the commission, such employees as may be necessary for the proper discharge of the functions of the commission. The director shall act as the agent of the tax commissioner for purposes of enforcement of section 3 of this Act.

SECTION 2. A new subsection to section 57-39.2-04 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from the sale of any aircraft taxable under the provisions of section 3 of this Act.

SECTION 3. A new chapter to title 57 of the North Dakota Century Code is hereby created and enacted to read as follows:

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

1. "Aircraft" includes airplanes, helicopters, and ultralight vehicles.
2. "Director" means the director of aeronautics.
3. "Purchase price" means the total amount paid for the aircraft whether paid in money or otherwise. "Purchase price" also means the fair market value when no current purchase is involved and the aircraft is moved by the owner or user from any other state into this state and on which no sales, use, or excise tax was paid by the owner or user to any other state, or on which a sales, use, or excise tax was paid by the owner or user to another state which does not have reciprocity with this state, and for which aircraft registration is required by section 2-05-11 or registration and licensing required is by section 2-05-18. If tangible personal property that is subject to a sales or a use tax imposed by chapter 57-39.2 or chapter 57-40.2 when sold or used is taken in trade as part payment on an aircraft taxable under this chapter, no credit or trade-in value shall be allowed by the person selling the aircraft in determining the tax imposed by this chapter. The excise tax imposed by this chapter is a one-time tax on the full purchase price with no allowance for personal property trade-in credit, whether the aircraft is purchased or acquired in or outside of the state of North Dakota. After the first taxable sale no additional excise tax shall be imposed upon the sale or transfer of ownership of the aircraft to any purchaser in the state regardless of the number of sales or purchases of the aircraft in the state. The aeronautics commission shall maintain records of all first-time excise taxes paid on all aircraft purchased or acquired for the first time on and after the effective date of this Act. If an aircraft is purchased by a person who has paid the one-time excise tax and who has had an aircraft stolen or destroyed, a credit must be allowed in the amount the purchaser has paid in tax on the stolen or destroyed aircraft. The purchaser must provide the director with a notarized statement from the insurance company verifying the fact that the original aircraft was a total loss and stating the amount compensated by the insurance company for the loss. The statement from the insurance company must accompany the purchaser's application for a certificate of registration for the replacement aircraft. In instances in which a licensed aircraft dealer or established fixed base aviation operator located at an airport open for public use and approved by the aeronautics commission, places into service a new or used

aircraft for the purpose of renting, leasing, or dealership or fixed base aviation operator utility service, the reasonable value of the new or used replacement aircraft shall be included as a trade-in value if the new or replacement aircraft is properly registered with the aeronautics commission. "Purchase price" in those instances where the aircraft is acquired by gift or other transfer for a nominal or no monetary consideration, also includes the average value of similar aircraft, established by standards as determined by the director. "Purchase price" in those instances where an aircraft is manufactured by a person who registered it under the laws of this state, means the manufactured cost of such aircraft and manufactured cost means 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 aircraft, manufactured cost means the reasonable value of the completed aircraft, as determined by the director.

4. "Purchaser" means any person owning or in possession of an aircraft who makes application to the director for registration of such aircraft.
5. "Sale", "sells", "selling", "purchase", or "acquired" includes any transfer of title or ownership of an aircraft by way of gift, exchange, barter, or by any other manner for or without consideration.
6. "Use" means the exercise by any person of any right incident to ownership of an aircraft, except that it does not include the sale or holding for sale of such an aircraft in the regular course of business.

Tax imposed. There is imposed an excise tax at the rate of four percent on the purchase price of any aircraft purchased or acquired either in or outside of the state of North Dakota or on the lease or rental cost of any aircraft, less fuel, if rented dry and required to be registered under the laws of this state, except on aircraft or helicopters designed or modified for exclusive use as agricultural aircraft for aerial application of agricultural chemicals, insecticides, fungicides, growth regulators, pesticides, dusts, fertilizer or other agricultural materials, the excise tax is imposed at the rate of three percent on the purchase price of any such aircraft purchased or acquired in or outside of this state, including the leasing or renting of such agricultural aircraft to users for agricultural purposes.

Exemptions. There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it, the following:

1. Aircraft upon which the excise tax imposed by this chapter has been paid once on the purchase price with no trade-in

of aircraft or other property allowed, whether such aircraft is purchased or acquired in or outside of this state, shall be exempt from any additional excise tax upon the sale or transfer of such aircraft to any purchaser in this state regardless of the number of sales or purchasers of such aircraft that may take place within the state. The aeronautics commission shall maintain records of all first-time excise tax paid on all aircraft purchased or acquired for the first time on and after the effective date of this Act.

2. Aircraft acquired by disabled veterans as defined by the provisions of Public Law No. 79-663 [38 U.S.C. 1901]. This exemption shall be allowed only with respect to one aircraft owned by any disabled veteran.
3. Any aircraft owned by or in possession of the federal or state government or any of the political subdivisions, departments, agencies, or institutions thereof.
4. Aircraft which were previously titled or registered in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more of the joint tenants; the transfer of aircraft by gift, inheritance, or devise between a husband and wife, parent and child, or brothers and sisters; and the transfer of aircraft to reflect a new name of the owner caused by a business reorganization, if the ownership of the business organization remains in the same person or persons as prior to the reorganization.
5. Aircraft transferred between a lessee and lessor, if the lessee has been in continuous possession of the aircraft for a period of one year or longer, and if the lessor has paid either the tax imposed under this chapter at the time of registering the aircraft in this state or the use tax imposed by chapter 57-40.2.
6. Aircraft acquired by any parochial or private nonprofit school. To qualify, a school must normally maintain a regular faculty and curriculum and must have a regularly organized body of students in attendance. The aircraft is not to be used for commercial activities.

Purchaser to furnish "aircraft purchaser's certificate" to director of aeronautics. Any person acquiring an aircraft shall complete an "aircraft purchaser's certificate" in the form the director prescribes, showing a complete description of the aircraft, the seller's name and address, the buyer's name and address, the full purchase price of the aircraft, with no trade-in of aircraft or other property allowed and whether the aircraft was the subject of a gift or inheritance, and any other information that the director may require.

Presentation of "aircraft purchaser's certificate" to director. No registration shall be issued by the director for an aircraft until the applicant presents a properly executed "aircraft purchaser's certificate" with the application for registration. If a registration application is made for an aircraft that has been previously registered in this state and the applicant is the same person in whose name the registration had previously been issued, the "aircraft purchaser's certificate" need not be submitted to the director.

Aircraft registration not to be issued unless tax paid. No registration shall be issued by the director for the ownership or operation of any aircraft to any applicant for registration unless the tax imposed by this chapter has been paid by the applicant to the director except for those aircraft which have been previously registered and the applicant for registration is the same person in whose name the registration had previously been issued and for aircraft exempt from the tax imposed by this chapter.

Presumption. For the purpose of the proper administration of this chapter the following presumptions apply:

1. Evidence that an aircraft was sold for delivery in this state is prima facie evidence that it was sold for use in this state.
2. When an application for registration of an aircraft is received by the director within thirty days of the date it was purchased or acquired by the purchaser, it is presumed, until the contrary is shown by the purchaser that it was purchased or acquired for use in this state. This presumption applies whether or not such aircraft was previously titled or registered in another state.

Credit for excise tax paid in other states - Reciprocity. If any aircraft has been subjected to a sales tax, use tax, or excise tax in any other state, in an amount less than the tax imposed by this chapter, the provisions of this chapter apply at a rate measured by the difference between the rate fixed in this chapter and the rate by which the previous tax paid in the other state upon the sale or use was computed. If the tax imposed in another state equals or exceeds the tax imposed by this chapter, then no tax is due on such aircraft. The provisions of this section apply only if such other state 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.

Allocation of revenue. All moneys collected and received under this chapter shall be transmitted monthly by the director to the state tax commissioner who shall pay them to the state treasurer to be credited to the state general fund.

Penalties.

1. Any person who violates any of the provisions of this chapter is guilty of a class B misdemeanor.
2. Any person who fails to submit a purchase certificate or who submits a false or fraudulent aircraft purchaser's certificate is subject to a penalty of five percent of the true amount of the tax which was due or five dollars, whichever is greater, plus one percent of such tax for each month or fraction thereof subsequent to the month in which the false or fraudulent "aircraft purchaser's certificate" was furnished to the director. Any penalty shall be paid to the tax commissioner or the director. The director or the tax commissioner, if satisfied that the delay in payment of the tax was excusable, may waive, and if paid, refund all or any part of such penalty and interest. Unpaid penalties may be enforced in the same manner as the tax imposed by this chapter.
3. Whenever a person, including an aircraft dealer, has collected from a person acquiring an aircraft, an aircraft excise tax in excess of the amount prescribed or due under this chapter, and if the person does not refund the excessive tax collected to the person who remitted it, the person who collected the tax shall pay it to the tax commissioner in the quarterly period in which the excessive collection occurred. The penalty and interest provisions of this section shall apply beginning at termination of each reporting period.

Director to act as agent of tax commissioner in administration of aircraft excise tax. The state tax commissioner is charged with the administration of this chapter. The tax commissioner may prescribe all rules, not inconsistent with the provisions of this chapter, for the administration of this chapter. The collection of the aircraft excise tax shall be carried out by the director who shall act as the agent of the state tax commissioner and who shall be subject to all rules, not inconsistent with the provisions of this chapter, that may be prescribed by the tax commissioner. The provisions of this chapter shall not be construed to prevent the collection of aircraft excise taxes by the tax commissioner in the course of any audit carried on by the tax commissioner.

SECTION 4. EFFECTIVE DATE. This Act becomes effective on January 1, 1984.

Approved April 5, 1983

CHAPTER 648

HOUSE BILL NO. 1727
(Backes, Strinden)

(Approved by Committee on Delayed Bills)

MONTHLY TAX COLLECTION

AN ACT to create and enact a new section to chapter 57-39.2 and a new section to chapter 57-40.2 of the North Dakota Century Code, providing a deduction to reimburse retailers for administrative expenses in connection with collection and payment of sales and use taxes; to amend and reenact section 57-39.2-11, subsection 1 of section 57-39.2-12, section 57-40.2-07, subsection 1 of section 57-51-05, sections 57-51-06, 57-51-17, 57-60-02, 57-60-05, 57-61-01, 57-61-02, and 57-61-05 of the North Dakota Century Code, relating to monthly payment of sales and use taxes, gross production tax, privilege tax on coal facilities, and the coal severance tax; to repeal subsection 6 of section 57-51-01 and section 57-60-04 of the North Dakota Century Code, relating to a definition of calendar quarter and to payment of coal facilities privilege tax by plants not electrical generating plants.

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

SECTION 1. AMENDMENT. Section 57-39.2-11 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-11. Return of gross receipts.

1. ~~On~~ Except as provided in section 57-39.2-12 for monthly reports and payments, on or before the last day of the month following the close of the first quarterly period as defined in the following section, and on or before the last day of the month following each subsequent quarterly period of three months, the retailer shall make out a return for the preceding quarterly period in such form and manner as may be prescribed by the commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further information as the commissioner may require to enable him correctly to compute and collect the tax herein levied.

The commissioner, upon request by any retailer and a proper showing of the necessity therefor, may grant unto such retailer an extension of time not to exceed thirty days for making such return. If such extension is granted to any such retailer, the time in which he is required to make payment as provided for in section 57-39.2-12 shall be extended for the same period but interest shall be charged upon the amount of the deferred payment at the rate of eight 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.

2. The commissioner, if he deems it necessary or advisable in order to ensure the payment of the tax imposed by this chapter, or if he deems it practical, may require returns and payment of the tax to be made for annual periods or other than quarterly or monthly periods, the provisions of this chapter to the contrary notwithstanding.
3. Returns shall be signed by the retailer or his duly authorized agent and shall contain a written declaration that they are made and subscribed under the penalties of this chapter.

SECTION 2. AMENDMENT. Subsection 1 of section 57-39.2-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The tax levied under this chapter shall be due and payable in quarterly installments on or before the last day of the month next succeeding each calendar quarterly period, except that when if total sales subject to sales and use taxes for the preceding calendar year for any business which has been issued a sales tax permit equal or exceed three hundred thirty-three thousand dollars, the tax levied under this chapter shall be payable monthly on or before the twenty-second day of the next succeeding month. The retailer shall pay an estimated tax of at least ninety-five percent of the tax due on a monthly basis in the manner prescribed by the commissioner. Within thirty days after the end of each quarterly period, any retailer required to pay the tax on a monthly basis shall file a return with the commissioner showing gross receipts, tax due, the amount of tax paid for each month of the quarterly period and such other information as the commissioner requires. At the time of filing the return, the retailer shall pay any balance of tax due for the quarterly period. If such monthly payment is not made or if the return indicates or, if upon audit, it is determined that less than ninety-five percent of the tax due was paid, the retailer shall be subject to a penalty of five percent of the amount below ninety-five percent left unpaid for each month or fraction thereof in which it remains unpaid to the date the quarterly report is due.

After such time, penalties and interest for failure to file a return, for filing an incorrect return or failure to pay the tax due shall be those prescribed in section 57-39.2-18. If the commissioner is satisfied that the nonpayment or payment of less than ninety-five percent of the tax due was excusable, the commissioner may waive and, if paid, refund all or any part of such penalty. If the total of sales subject to such taxes decreases below three hundred thirty-three thousand dollars for any succeeding year, the retailer shall return to quarterly filing and payments. When there is a sale of any business by any retailer or when any business is discontinued by a retailer, the tax shall become due immediately prior to the sale or discontinuance of such business and if not paid within fifteen days thereafter it shall become delinquent and subject to the penalties provided in section 57-39.2-18.

SECTION 3. A new section to chapter 57-39.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Deduction to reimburse retailer for administrative expenses.

1. A retailer who pays the estimated tax due under section 57-39.2-12 within the time limitations prescribed may deduct and retain one and one-half percent of the tax due.
2. The aggregate of deductions allowed by this section and section 5 of this Act may not exceed two hundred fifty dollars per quarterly period for each business location which has been issued a sales or use tax permit by the commissioner.
3. The deduction allowed retailers by this section is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the commissioner upon request.

SECTION 4. AMENDMENT. Section 57-40.2-07 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-07. Collection of use tax. The tax imposed by this chapter shall be collected in the following manner:

1. Except as otherwise provided by section 57-39.2-14.1, every retailer maintaining a place of business in this state and making sales of tangible personal property for use in this state, not exempted under the provisions of section 57-40.2-04, before making any sales shall obtain a permit from the commissioner to collect the tax imposed by this chapter, which permit shall be subject to all of the

requirements, conditions, and fees for its issuance that apply with respect to a retail sales tax permit, and at the time of making such sales, whether within or without the state, shall except as otherwise provided in subsection 1 of section 57-40.2-06, collect the tax imposed by this chapter from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the tax commissioner, if the commissioner, by regulation, shall require such receipt. Each such retailer shall list with the tax commissioner the name and address of all his agents operating in this state, and the location of each of his distribution or sales houses or offices or other places of business in this state.

2. The tax commissioner, upon application, may authorize the collection of the tax imposed by this chapter by any retailer not maintaining a place of business within the state, who, to the satisfaction of the commissioner, furnishes adequate security to ensure collections and payment of the tax. To such retailer shall be issued a permit to collect the tax in such manner and subject to such regulations and agreements as the commissioner shall prescribe. When so authorized, such retailer shall, except as otherwise provided in subsection 1 of section 57-40.2-06, collect the tax upon all tangible property sold to his knowledge for use within this state, as a retailer maintaining a place of business within this state collects such tax. Such authority and permit may be canceled at any time, if the commissioner considers the security inadequate, or believes that such tax can be collected more effectively from the person using such property in this state.
3. The tax required to be collected, and any tax collected, by any retailer under subsections 1 and 2 of this section shall constitute a debt owed by the retailer to this state.
4. Each Except as provided in subsection 7 of this section, each retailer required or authorized, pursuant to this section, to collect such tax shall pay the tax in quarterly installments on or before the last day of the month next succeeding each quarterly period ending March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year. Except that when there is a sale of any business by any retailer required or authorized, pursuant to this section, to collect such tax or when any business is discontinued by such retailer, the tax shall become due immediately prior to the sale or discontinuance of such business and if not paid within fifteen days thereafter it shall become delinquent and subject to the penalties provided in section 57-40.2-15. Every retailer, at the time of making the return required

by this chapter, shall compute and pay to the commissioner the tax due for the preceding period.

5. The Except as provided in subsection 7 of this section, the retailer, on or before the last day of the month following the close of the first quarterly period as defined in subsection 4 of this section, and on or before the last day of the month following each subsequent quarterly period of three months, shall make out a return for the preceding quarterly period in such form and manner as may be prescribed by the commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further information as the tax commissioner may require to enable him correctly to compute and collect such tax, but the tax commissioner, upon receipt of a proper showing by any retailer of the necessity therefor, may grant unto such retailer an extension of time not to exceed thirty days for making such return. If such extension is granted to any retailer, the time in which he is required to make payment shall be extended for the same period. The commissioner, if he deems it necessary or advisable in order to ensure the payment of the tax, or if he deems it practical, may require returns and payment of the tax to be made for annual periods or other than quarterly periods, the provisions of this chapter to the contrary notwithstanding. A return shall be signed by the taxpayer or his duly authorized agent and shall contain a written declaration that it is made and subscribed under penalties of this chapter.
6. Any Except as provided in subsection 7 of this section, any person who uses any property upon which the said tax has not been paid, either to the retailer or directly to the tax commissioner, shall be liable therefor, and, on or before the last day of the month next succeeding each quarterly period, shall pay the tax upon all such property used by him during the preceding quarterly period, in such manner and accompanied by such returns as the commissioner shall prescribe.
7. If total sales and purchases subject to sales and use taxes for the preceding calendar year equal or exceed three hundred thirty-three thousand dollars, the tax levied by this chapter shall be payable monthly on or before the twenty-second day of the next succeeding month. The amount of monthly tax payable, manner of payment, filing of the return, penalty, and waiver of penalty shall be that prescribed in subsection 1 of section 57-39.2-12. After the quarterly return is due, penalty and interest for failure to file a return or corrected return or to pay the tax imposed shall be that prescribed in section 57-40.2-15. If a person is required to file more than one return pursuant to this section, the monthly payment

requirement shall apply separately to each return. If total sales and purchases subject to sales and use taxes for any succeeding calendar year decrease below three hundred thirty-three thousand dollars, such person may return to quarterly installments.

8. The commissioner, when in his judgment it is necessary and advisable to do so in order to secure the collection of such tax, may require any person subject to the tax to file with him a bond, issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility, in such amount as the commissioner may fix, to secure the payment of any tax or penalties due or which may become due from such person. In lieu of such bond, securities approved by the tax commissioner, in an amount which he may prescribe, may be deposited with him, and such securities shall be kept in the custody of the commissioner, and may be sold by him at public or private sale, without notice to the depositor thereof, if it becomes necessary so to do in order to recover any tax or penalties due. Upon such sale, the surplus, if any remains above the amounts due, shall be returned to the person who deposited the securities.
- 8- 9. The commissioner may adopt and promulgate rules and regulations for adding such tax, or the average equivalent thereof, by providing different methods applying uniformly to retailers within the same general classification for the purpose of enabling such retailers to add and collect, as far as practicable, the amount of such tax.

SECTION 5. A new section to chapter 57-40.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Deduction to reimburse retailer for administrative expenses.

1. A retailer who pays the estimated tax due under section 57-40.2-07 within the time limitations prescribed may deduct and retain one and one-half percent of the tax due.
2. The aggregate of deductions allowed by this section and section 3 of this Act may not exceed two hundred fifty dollars per quarterly period for each business location which has been issued a sales or use tax permit by the commissioner.
3. The deduction allowed retailers by this section is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the commissioner upon request.

SECTION 6. AMENDMENT. Subsection 1 of section 57-51-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The gross production tax on oil or gas, as herein provided, shall be paid on a quarterly monthly basis. Said tax shall become due on the forty-fifth day, following the preceding quarterly period on all oil or gas produced in and saved during the preceding quarterly period, and, if the tax is not paid on or before the end of the forty-fifth day, it shall become delinquent and shall be collected as herein provided. The tax on oil shall be due and payable on the twenty-fifth day of the month succeeding the month of production. The tax on gas shall be due and payable on the fifteenth day of the second month succeeding the month of production. If the tax is not paid as required by this section, it shall become delinquent and shall be collected as provided in this chapter. The penalty does not apply if ninety percent of the tax due has been paid with the monthly return and the taxpayer files an amended monthly return and pays the total tax due within sixty days from the original due date. The tax commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax and when such a request is granted the tax shall not be delinquent until the extended period has expired.

SECTION 7. AMENDMENT. Section 57-51-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-51-06. Tax paid to tax commissioner - Statements by person paying tax - Statements by producer. The tax herein provided for shall be paid to the commissioner and the person paying the tax shall file with said commissioner at the time the tax is required to be paid, a statement, under oath, on forms prescribed by said commissioner, giving with other information required, the following:

1. Full description of the property by lease name, subdivision of quarter section, section, township and range, from which said oil or gas was produced;
2. The name of the producer;
3. The gross amount of said oil or gas purchased;
4. The total value of such oil or gas at the price paid therefor, if purchased at time of production; and
5. The prevailing market price of oil or gas sold at time of production; provided, that in lieu of such statement, a purchaser, at time of production, may furnish a true verified copy of the regular settlement sheet in use by

such purchaser, if such sheet contains all the information required.

Any person engaged in the production within this state of oil or gas, shall on or before the ~~forty-fifth~~ twenty-fifth day following the ~~preceeding~~ preceeding quarterly period of the next succeeding month after production, and any person engaged in the production of gas within this state shall, on or before the fifteenth of the second succeeding month after production, file with the commissioner a statement under oath upon forms prescribed by said commissioner, giving, along with other information required, the following:

1. Name of the property, description by subdivision of quarter section, section, township and range;
2. The gross amount of oil or gas produced and saved;
3. The name of the purchaser and the price received therefor; and
4. Each report required hereunder shall be filed on separate forms as to product and county.

Reports from either the purchaser or producer, as the case may be, shall be delinquent after the last day fixed for filing the same, and every person required to file such report shall be subject to a penalty of twenty-five dollars per day for each property upon which such person shall fail or refuse to file such reports. The penalties herein prescribed shall be for failure to file reports and shall be in addition to the penalty imposed at the rate of seven percent per annum for delinquent tax, by section 57-51-10 and shall likewise constitute a lien against the assets of such person failing or refusing to file such reports. The penalties prescribed under this section shall be collected in the same manner as gross production taxes and shall be apportioned as other gross production tax penalties; provided that the commissioner may, for good cause shown, remit any penalties imposed under this section. When royalty is claimed to be exempt from taxation by law, the facts on which such claims of exemption are based and such other information pertaining thereto as the commissioner may require shall be furnished in the report.

SECTION 8. AMENDMENT. Section 57-51-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-51-17. Reports by carriers of oil and gas transported - Reports of refiners - Reports by persons purchasing or storing oil. It shall be the duty of every railroad company, pipeline or transportation company to furnish to the commissioner, upon forms prescribed by ~~him~~ the commissioner, any and all information relative to the transportation of oil or gas subject to gross production tax, that may be required to properly enforce the provisions of this chapter; and such report shall contain, along with other information required, the name of shipper, amount of oil and gas transported, point of receipt of

shipment and point of destination; said commissioner may require any such pipeline or transportation company to install suitable measuring devices to enable such company to include in such reports the quantity of oil or gas transported within, into, out of, or across the state of North Dakota. It shall be the duty of every person engaged in the operation of a refinery for the processing of oil or gas, in the state of North Dakota, to furnish quarterly monthly to the commissioner, upon forms prescribed by him the commissioner, any and all information relative to the amount of oil or gas subject to gross production tax that has been processed by it during such quarterly monthly period, and oil on hand at the close of such period, that may be required to properly enforce the provisions of this chapter. It shall be the duty of every person engaged in the purchase or storing of oil subject to gross production tax in the state of North Dakota to furnish quarterly monthly a report to the commissioner, upon forms prescribed by him the commissioner, showing the amount of such oil in storage, giving, along with other information required, the location, identity, character and capacity of the storage receptacle in which such oil is stored. All such reports shall be filed for each quarter month and shall be delinquent if not filed on or before the forty-fifth day following the preceding quarterly period twenty-fifth day of the next succeeding month after production for oil and the fifteenth day of the second succeeding month after production for gas as provided in subsection 1 of section 57-51-05.

The failure of any person to comply with the provisions of this section shall make any such person liable to a penalty of twenty-five dollars for each day it shall fail or refuse to furnish such statement or comply with the provisions of this chapter; and such penalty may be recovered at the suit of the state, on relation of the commissioner; and such penalty so collected shall be apportioned to the state general fund; provided that the tax commissioner may, for good cause shown, excuse any or all penalties imposed under this section.

* SECTION 9. AMENDMENT. Section 57-60-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-02. Imposition of taxes. There is hereby imposed upon the operator of each coal conversion facility an annual tax for the privilege of producing products of such coal conversion facility. The rate of the tax shall be computed as follows:

1. For all coal conversion facilities, other than electrical generating plants and coal gasification plants as provided in subsections 2 and 3, the tax shall be measured by the gross receipts derived from such facility for the preceding calendar year month and shall be in the amount of two and one-half percent of such gross receipts.
2. For electrical generating plants, the tax shall be at a rate of twenty-five one-hundredths of one mill on each

* NOTE: Section 57-60-02 was also amended by section 2 of House Bill No. 1728, chapter 618.

kilowatt hour of electricity produced for the purpose of sale.

3. For coal gasification plants, the tax shall be either the amount provided in subsection 1 or ten cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale, whichever is greater.

* SECTION 10. AMENDMENT. Section 57-60-05 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-05. Payment of taxes on electrical generating plants - When taxes due - When delinquent. The taxes imposed by this chapter on operators of electrical generating plants shall be due within ~~thirty~~ twenty-five days after the end of each ~~calendar quarter~~ month, and, if not received by the ~~thirtieth~~ twenty-fifth day, shall become delinquent and shall be collected as herein provided. The commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax, and when such a request is granted, the tax shall not be delinquent until the extended period has expired. The tax commissioner shall require a report to be filed ~~quarterly~~ monthly by each person subject to the taxes imposed by ~~subsection 2~~ of section 57-60-02, in such form as the commissioner shall prescribe, to provide such information as the commissioner deems necessary for the proper administration of this chapter.

** SECTION 11. AMENDMENT. Section 57-61-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-61-01. Severance tax upon coal - Imposition - Computation of increases - In lieu of sales and use taxes - Payment to the tax commissioner. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax in an amount to be determined as follows:

1. Eighty-five cents per ton of two thousand pounds [907.18 kilograms]; and
2. For every four point increase in the index of wholesale prices for all commodities prepared by the United States department of labor, bureau of labor statistics, the amount of the severance tax provided in subsection 1 shall be increased one cent per ton of two thousand pounds [907.18 kilograms]. For the purposes of this computation, a fractional point increase shall be disregarded if less than one-half point and treated as one full point if one-half point or more. The state tax commissioner shall determine such increases based upon increases in the wholesale price index from the level of such index as of June 1979 to the level of such index as of December 1979

* NOTE: Section 57-60-05 was also amended by section 4 of House Bill No. 1728, chapter 618.

** NOTE: Section 57-61-01 was also amended by section 24 of House Bill No. 1373, chapter 598.

and of June and December of each year thereafter, and any increases based upon the level of the index in June shall be effective on and after the following July first and any increases based upon the level of the index in December shall be effective on and after the following January first. At no time shall the amount of the severance tax be reduced. If the wholesale price index declines, the severance tax shall remain at the highest level determined prior to such decline, and shall remain at such level until further increases are warranted because of further increases in the wholesale price index beyond the point at which the last increase was determined.

Such severance tax shall be in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit such tax for each ~~calendar quarter~~ month within ~~thirty~~ twenty-five days after the end of each ~~quarter~~ month, to the state tax commissioner upon such reports and forms as the tax commissioner shall deem necessary. If the method of determining increases in the amount of the severance tax provided in subsection 2 is for any reason held to be invalid, such decision shall not affect the validity of the amount of the tax provided in subsection 1.

SECTION 12. AMENDMENT. Section 57-61-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-61-02. When tax due - When delinquent. The severance tax as provided in this chapter shall be due within ~~thirty~~ twenty-five days after the end of each ~~quarter~~ month, and if not received by the ~~thirtieth~~ twenty-fifth day, shall become delinquent and shall be collected as herein provided. The tax commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax, and when such a request is granted, the tax shall not be delinquent until the extended period has expired. The tax commissioner shall require a report to be filed ~~quarterly~~ monthly by each owner or operator of a coal mine, in such form as the tax commissioner may specify, to list a full description of the mine, the number of tons of coal severed, the amount of tax due and remitted, and any other information deemed necessary by the tax commissioner for the proper administration of this chapter.

SECTION 13. AMENDMENT. Section 57-61-05 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-61-05. Penalty on delinquency - Failure to file returns. Where the severance tax provided for in this chapter shall become delinquent, there is hereby imposed a penalty of five dollars, or a sum equal to five percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction thereof during which such delinquency continues, excepting the month within which such tax

became due. The tax commissioner, in his discretion for good cause shown, may waive the penalty or the interest provided by this section. If the ~~quarterly~~ return is not filed within ~~thirty~~ twenty-five days after the end of any ~~quarter~~ month and taxes due paid, the tax commissioner shall notify the delinquent owner or operator of such delinquency, and if such return and remittance are not filed within an additional fifteen days, the tax commissioner shall notify the public service commission, which shall forthwith suspend such owner's or operator's license or permit until such time as payment is received, or the issues settled to the satisfaction of the tax commissioner.

* SECTION 14. REPEAL. Subsection 6 of section 57-51-01 of the North Dakota Century Code and section 57-60-04 of the 1981 Supplement to the North Dakota Century Code are hereby repealed.

Approved April 28, 1983

* NOTE: Section 57-60-04 was amended by section 3 of House Bill No. 1728, chapter 618.

CHAPTER 649

SENATE BILL NO. 2301
(Barth)

SALES TAX DETERMINATION

AN ACT to amend and reenact section 57-39.2-15 of the North Dakota Century Code, relating to length of time for sales tax determination.

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

SECTION 1. AMENDMENT. Section 57-39.2-15 of the 1981 Supplement to 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 if it is determined upon audit that the tax due was twenty-five percent or more above the amount reported on a return, notice of determination of tax due shall be given not later than six years after the last day on which the return was due or six years after the return was filed, whichever is 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.

Approved March 17, 1983

CHAPTER 650

HOUSE BILL NO. 1316
(Laughlin)

SALES TAX PENALTIES

AN ACT to amend and reenact subsection 1 of section 57-39.2-18 of the North Dakota Century Code, relating to sales tax penalties.

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

SECTION 1. AMENDMENT. Subsection 1 of section 57-39.2-18 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any if any person ~~failing~~ fails to file a return or corrected return or to pay any tax within the time required by this chapter or, if upon audit, is found to owe additional tax, such person shall be subject to a penalty of five percent of the amount of tax due or of five dollars, whichever is greater, plus interest of one percent of such tax for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due. The commissioner, if satisfied that the delay was excusable, may waive, and if paid, refund all or any part of such penalty and interest. Such penalty and interest shall be paid to the commissioner and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this chapter.

Approved April 6, 1983

CHAPTER 651

HOUSE BILL NO. 1417
(Schneider)

USE TAX ON CONTRACTORS

AN ACT to create and enact a new section to chapter 57-40.2 of the North Dakota Century Code, relating to the use tax upon contractors.

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

SECTION 1. A new section to chapter 57-40.2 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Use tax on contractors.

1. Where a contractor or subcontractor uses tangible personal property in the performance of his contract, or to fulfill contract or subcontract obligations, whether the title to such property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the titleholder of such property would be subject to pay the sales or use tax, such contractor or subcontractor shall pay a use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price or fair market value of such property, whichever is greater, unless such property has been previously subjected to a sales tax or use tax by this state, and the tax due thereon has been paid.
2. The provisions of this chapter pertaining to the administration of the tax imposed by section 57-40.2-02.1, not in conflict with the provisions of this section, shall govern the administration of the tax levied by this section.
3. The tax imposed by this section shall not apply to medical equipment purchased as tangible personal property by a hospital and subsequently installed by a contractor into such hospital.

Approved April 5, 1983

CHAPTER 652

HOUSE BILL NO. 1318
(Koski)

USE TAX EXEMPTION FOR DONATION

AN ACT to create and enact a new subsection to section 57-40.2-04 of the North Dakota Century Code, relating to exemptions from the use tax.

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

SECTION 1. A new subsection to section 57-40.2-04 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

The donation by a retailer of tangible personal property to an organization exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)].

Approved March 16, 1983

CHAPTER 653

HOUSE BILL NO. 1520
(Aubol)

MOTOR VEHICLE EXCISE TAX ON MANUFACTURER

AN ACT to amend and reenact subsection 9 of section 57-40.3-04 of the North Dakota Century Code, relating to motor vehicle excise tax on the manufacture or assembly of a motor vehicle.

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

SECTION 1. AMENDMENT. Subsection 9 of section 57-40.3-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. Any motor vehicle being registered pursuant to chapter 39-04 for the first time by a person other than a manufacturer of motor vehicles, as defined in subsection 32 of section 39-01-01, who ~~manufactured or~~ assembled the motor vehicle for his own use.

Approved March 17, 1983

CHAPTER 654

HOUSE BILL NO. 1418
(Schneider)

MOTOR VEHICLE EXCISE TAX PAYMENT LIEN

AN ACT to create and enact a new section to chapter 57-40.3 of the North Dakota Century Code, relating to liens for failure to pay motor vehicle excise tax.

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

SECTION 1. A new section to chapter 57-40.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

Lien for failure to pay tax.

1. Whenever any taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay it, the amount, including any interest, penalty, or addition to such tax, together with the costs that may accrue, shall be a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to the taxpayer. In the case of property in which a deceased taxpayer held an interest as joint tenant or otherwise with right of survivorship at the time of death, the lien shall continue as a lien against the property of the survivor or survivors to the extent of the deceased taxpayer's interest therein, which interest shall be determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein. The lien shall attach at the time the tax becomes due and payable and shall continue until the liability for such amount is satisfied.
2. In order to preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the tax commissioner shall file with the register of deeds of the county in which the property is located, a notice of the lien.

3. 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. The time notice of lien was received.
 - d. The date of notice.
 - e. The amount of the lien when due.
 - f. When satisfied.

The register of deeds shall endorse on each notice of lien the day, hour, and minute received and preserve and index the notice in the index book, and the lien shall be effective from the time of the indexing. The tax commissioner shall be exempt from the payment of fees otherwise provided by law for the filing or the satisfaction of such liens.

4. Upon the payment of a tax relative to which the tax commissioner has filed notice with the register of deeds, the tax commissioner shall file with the register of deeds a satisfaction of the tax, and the register of deeds shall enter the satisfaction on the notice on file in his office and indicate that fact on the index.
5. The attorney general, upon the request of the tax commissioner, shall bring an action at law or in equity without bond to enforce payment of any taxes and any penalties, or to foreclose the lien in the manner provided for mortgages on real or personal property, and in such action he shall have the assistance of the state's attorney of the county in which the action is pending. The foregoing remedies of the state shall be cumulative and no action taken by the tax commissioner or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law.

Approved March 4, 1983

CHAPTER 655

HOUSE BILL NO. 1315
(Laughlin)

MOTOR VEHICLE PURCHASER'S CERTIFICATE

AN ACT to amend and reenact section 57-40.3-11 of the North Dakota Century Code, relating to penalties for failure to submit a "motor vehicle purchaser's certificate".

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

SECTION 1. AMENDMENT. Section 57-40.3-11 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.3-11. Penalties.

1. Any person who shall violate any of the provisions of this chapter shall be guilty of a class B misdemeanor.
2. Any person who shall ~~submit~~ submits a false or fraudulent "motor vehicle purchaser's certificate" ~~shall be, or who fails to submit the certificate,~~ is subject to a penalty of five percent of the true amount of the tax which was due or five dollars, whichever is greater, plus one percent of such tax for each month or fraction thereof subsequent to the month in which the "motor vehicle purchaser's certificate" was due or the false or fraudulent "motor vehicle purchaser's certificate" was furnished to the motor vehicle registrar. Such penalty shall be paid to either the tax commissioner or the motor vehicle registrar and disposed of pursuant to the provisions of subsection 3 of section 57-40.3-10. The tax commissioner, if satisfied that the failure to submit or the delay was excusable, may waive, and if paid, refund all or any part of such penalty and interest. Unpaid penalties may be enforced in the same manner as the tax imposed by this chapter.
3. Whenever a person, including any motor vehicle dealer, has collected from a person acquiring a motor vehicle, a motor vehicle excise tax in excess of the amount prescribed or due under this chapter, and if the person does not refund the excessive tax collected to the person who remitted it, the person who collected the tax shall pay it to the tax commissioner in the quarterly period in which the excessive collection occurred. The penalty and interest provisions of this section shall apply beginning at the termination of each reporting period.

Approved April 5, 1983

CHAPTER 656

HOUSE BILL NO. 1073
(Legislative Council)
(Interim Tax Statutes Revision Committee)

MOTOR FUELS TAX LAW CONSOLIDATION

AN ACT to create and enact chapter 57-43.1 of the North Dakota Century Code, relating to consolidation of provisions of the motor fuels tax law and the importers for use tax law; to amend and reenact subsection 1 of section 57-51-15 of the North Dakota Century Code, relating to distribution of the oil and gas gross production tax; to repeal chapters 57-50, 57-54, and 57-54.1 of the North Dakota Century Code, relating to motor fuel tax refunds, motor vehicle fuel tax, and importers for use tax; to provide penalties; and declaring an emergency.

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

SECTION 1. Chapter 57-43.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-43.1-01. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Commissioner" means the state tax commissioner.
2. "Dealer" means any person importing or causing to be imported into this state any motor vehicle fuel for operating or propelling motor vehicles for use, distribution or sale, in and after the fuel reaches this state and any person producing, refining, manufacturing, compounding or purchasing any motor vehicle fuel in this state for use, distribution or sale in this state.
3. "Importer for use" means any person importing motor fuel into this state in the fuel supply tank or tanks of any motor vehicle. In the case of motor vehicles that are leased or rented, the importer for use means the lessee or renter unless the commissioner has designated the lessor, renter, or some other person as the importer for use.
4. "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 [175 degrees Celsius] and not less than ninety-five percent distilled (recovered) below four hundred sixty-four degrees Fahrenheit [240 degrees Celsius] but does not include aviation fuel.

5. "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 but does not include aircraft.
6. "Original package" means any tank car, barrel, or other package which is in the form and condition in which it was imported into the state or into which motor vehicle fuel refined in this state or imported by pipeline is placed when removed from refinery storage or pipeline terminal storage.
7. "Person" includes every individual, partnership, society, firm, association, joint stock company, corporation, trustee, executor, administrator, or guardian. Whenever used in any case prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association includes the partners or members, and as applied to corporations, the officers.
8. "Public highway" or "highway" means every place generally open to the use of the public as a matter of right, for the purpose of vehicular travel, notwithstanding that it may be temporarily closed for construction, reconstruction, repair or maintenance.
9. "Use" means the consumption of fuel to propel a motor vehicle upon the public highways.
10. "Wholesale dealer" means the same as is stated in subsection 2, with the added qualification that it means those selling or delivering motor vehicle fuel to retail dealers.

57-43.1-02. Tax imposed on motor vehicle fuels - Tax reduced for agriculturally derived alcohol-blended fuels. A tax of eight cents per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state except the tax imposed on gasoline sold which contains a minimum ten percent blend of an agricultural ethyl alcohol or methanol whose purity is at least ninety-nine percent

alcohol is four cents per gallon [3.79 liters]. The dealer shall collect the tax imposed by this section from the consumer on all sales. Sales of fuel in the original package may be made to a licensed dealer, and the dealer may collect the tax imposed by this chapter, but on sales in the original package to persons other than licensed dealers, the dealer is liable for the tax.

57-43.1-03. Refund of tax provided for - Reduction for agriculturally derived alcohol motor vehicle fuel tax fund. Any person who buys or uses any motor vehicle fuel as defined in subsection 4 of section 57-43.1-01 for agricultural or industrial purposes, except motor vehicle fuel used in motor vehicles operated or intended to be operated in whole or in part upon any of the public highways of this state on which the motor vehicle fuel tax has been paid, shall be reimbursed or repaid within the time provided in this section, the amount of the tax paid by him upon the presentation to and the approval of the commissioner of a claim for refund. The amount of the tax refund provided for in this section shall be reduced by one-eighth cent per gallon [3.79 liters], and the one-eighth cent per gallon [3.79 liters] withheld from the refund shall be deposited in the agriculturally derived alcohol motor vehicle fuel tax fund. Those persons who have a valid tax assignment permit issued by the commissioner under the provisions of section 57-43.1-11 shall be charged one-eighth cent per gallon [3.79 liters] by the dealer and the one-eighth cent charge shall be remitted to the commissioner by the dealer when the dealer submits the tax assigned invoices for credit.

The refunds provided under this section from July 1, 1981, through June 30, 1983, for all fuels taxed under this chapter and chapter 57-43.2 except those fuels used in aircraft or with respect to refunds claimed under section 57-43.1-08, shall be reduced by one cent per gallon [3.79 liters]. This one cent per gallon [3.79 liters] not refunded during the period July 1, 1981, through June 30, 1983, shall be transferred to township road and bridge funds or to the appropriate county fund in the case of unorganized townships. Each township, or county in the case of unorganized townships, shall receive a sum based upon the proportionate number of miles [kilometers] of township roads within the organized or unorganized township as compared with the total number of miles [kilometers] of township roads in the state. These funds are to be used for the construction or maintenance of township roads and may not be used to purchase roadbuilding or road maintenance equipment. The state treasurer may adopt rules, pursuant to chapter 28-32, necessary to the administration of this allocation to townships during the 1981-1983 biennium.

57-43.1-04. Form of claim for refund. A refund claim must be on a form furnished by the commissioner and must have a written declaration by the claimant that it is made under the penalties of perjury. It must have attached the original invoice or invoices showing the purchase of the motor vehicle fuel on which a refund is claimed, must state the name of the person from whom the motor vehicle fuel was purchased, the date of purchase, the total amount

of such motor vehicle fuel, that the purchase price has been paid and that in the price was included the motor vehicle fuel tax payable to the state of North Dakota under this chapter, that the motor vehicle fuel was used or is to be used by the claimant other than in motor vehicles operated or intended to be operated upon the public highways of this state, the manner in which the motor vehicle fuel was used or is to be used, the equipment in which the motor vehicle fuel was used, or in which it will be used, and such other information as the commissioner requires. If the original invoice or invoices are lost, the claimant may substitute duplicate invoices plus a separate affidavit on forms prescribed by the commissioner.

57-43.1-05. 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 July first of the next year following, or the claim for refund is barred unless the commissioner grants an extension of time for cause. 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 five dollars.

57-43.1-06. Refund to prevent double taxation - Reduction for agriculturally derived alcohol motor vehicle fuel tax fund. Any person to whom special fuel or motor vehicle fuel is sold on which the tax imposed by this chapter or chapter 57-43.2 has been paid who thereafter removes the fuel from this state to a state which requires payment of a tax upon the use of the fuel in that state shall be granted a refund of the tax that was paid pursuant to this chapter or chapter 57-43.2. The refund of tax paid pursuant to this chapter shall be reduced by the amount provided in section 57-43.1-03, and the reduction shall be deposited in the agriculturally derived alcohol motor vehicle fuel tax fund. The refund shall be granted only upon application to the commissioner on forms prescribed by the commissioner, including proof of payment of the tax imposed by the other state, and is subject to the limitations provided in section 57-43.1-05. The tax provided for in section 57-43.2-03 shall not be levied on sales of any such fuel for which a refund of tax is made pursuant to this section.

57-43.1-07. Commissioner to audit and approve claim - Investigation of doubtful claims - Payment of claims. The commissioner, upon the presentation of a sworn claim, shall audit the claim for refund and prepare, in duplicate, an abstract showing the claim number, the name and address and the amount due each claimant. The commissioner shall approve and submit claims for

payment within thirty days of receipt in the commissioner's office unless the commissioner is in doubt as to the validity of any claim, in which case the commissioner may withhold approval for a reasonable time for purposes of investigation. The commissioner may authorize any employee or agent of his office to investigate doubtful claims and report the findings to the commissioner who shall then promptly approve or reject the claim as the facts may warrant. All claims approved by the commissioner must be paid by warrant-checks prepared by the office of management and budget. The state treasurer is not required to retain the canceled checks by which any refund may have been paid for a period of more than six years from July first of the fiscal year in which the refund check is issued.

57-43.1-08. Refund to state or political subdivision. When any construction, reconstruction, or maintenance of a public road, highway, street, or airport is undertaken by the state or any political subdivision in the state and where public funds of the United States, state, or any political subdivision are directly used for the purchasing of motor vehicle fuel to be used in publicly owned vehicles for such construction, reconstruction, or maintenance, such motor vehicle fuel is subject to a refund of the tax paid on the fuel as provided for in this chapter and under the same terms and conditions. The refund provided for in this section shall not be reduced for deposit to the agriculturally derived alcohol motor vehicle fuel tax fund.

57-43.1-09. Refunds to private individuals or corporations prohibited - Exception. No tax refund shall be paid to any person on any motor vehicle fuel used, except liquefied petroleum gas used for heating purposes, if the work performed by a person is paid for from public funds of the United States, state, or any political subdivision.

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

57-43.1-11. Assignment of refund claims. Any person eligible for motor vehicle fuel tax refund under this chapter, who has been sold the fuel by a seller on open account with the seller paying the refundable fuel tax, may assign to the seller the claim for the refund by attaching the assignment agreement to the refund claim form to be submitted by the claimant in accordance with section 57-43.1-04. Where an assignment of claim is made, and the claim is allowed under the provisions of this chapter, the refund check or

warrant issued must be made payable to both the claimant and his assignee.

57-43.1-12. Permit required during certain period - Revocation. Refund claims on motor vehicle fuel tax resulting from sale of motor vehicle fuel occurring during the period from April first through September thirtieth may be assigned to the seller of the fuel when any sales receipt for the purchase of motor vehicle fuel on which a tax refund is owing under this chapter becomes thirty or more days old. The purchaser may assign to the seller a claim for refund by acknowledging the assignment agreement in writing on forms prescribed by the commissioner. Before any person is allowed to assign a motor vehicle fuel tax refund to the seller during this period, that person must have an unrevoked permit issued by the commissioner authorizing the assignment. The permit must be issued to every applicant upon completing and forwarding to the commissioner an application form prescribed and furnished by the commissioner. The application must contain a sworn statement that the applicant is engaged in the business of agriculture and intends to use any fuel so assigned for agricultural purposes only. The permit is not transferable and is valid only for the person in whose name it is issued. Permits issued under the provisions of this section shall be valid until revoked by the commissioner. When assignment is made, the seller may forward it to the commissioner for credit on the seller's fuel tax return in the amount of the refund owing on the assigned sales receipt. Any purchaser who assigns a claim for refund under the provisions of this section and each assignee must file an annual report with the commissioner within the time limitation in section 57-43.1-05. If any purchaser or assignee fails to file the report within the period of time designated, the commissioner shall revoke the permit authorizing assignment in the same manner as provided for in section 57-43.1-21. The report forms shall be furnished by the commissioner in substantially the same form as is prescribed in section 57-43.1-04.

57-43.1-13. Dealer required to secure license. No person may engage in business in this state as a dealer in motor vehicle fuel unless that person holds an unrevoked license issued by the commissioner authorizing that person to engage in such business.

57-43.1-14. Form and contents of application for dealer's license - Fee - Bond or other security.

1. To procure a license as a dealer in motor vehicle fuel, an applicant shall file with the commissioner an application upon a form prescribed and furnished by the commissioner. Such application must contain:
 - a. The name under which the applicant intends to transact business.
 - b. If a partnership, the name and address of each of the several persons constituting the firm.

- c. If a domestic corporation, the corporate name, the date of incorporation, and the names of the directors and corporate officers.
 - d. If a foreign corporation, the corporate name, the state where and the time when incorporated, the name of the resident agent, the location of each place of business, and the date on which the business was established.
 - e. Any other information the commissioner may require. The application must be signed and verified by the owner of the business, if an individual, partnership, or unincorporated association, and by any authorized officer, if a corporation.
2. At the time of applying for a license, the applicant shall pay to the commissioner as a license fee the sum of two dollars. This fee must be paid into the state treasury and credited to the general fund.
 3. The commissioner may require a dealer, as a condition precedent to the issuance of a license, to furnish a bond guaranteeing the payment of the motor vehicle fuel tax collected by the dealer of not less than one thousand dollars. The bond is subject to approval by the commissioner.
 4. In lieu of a bond, securities, including letters of credit, approved by the commissioner in such amounts as the commissioner may prescribe, may be deposited with the commissioner, which securities shall be kept in the custody of the commissioner and may be sold by the commissioner at public or private sale, without notice to the depositor, if it becomes necessary to recover any tax, penalties, or interest due. All moneys deposited as security with the commissioner under the provisions of this subsection must be paid by the commissioner to the state treasurer and credited by the treasurer into a special fund to be known as the "motor vehicle fuel tax security trust fund". If any tax, penalty, or interest imposed by this chapter is not paid when due, the commissioner shall certify that information to the director of the office of management and budget who shall transmit the money to the commissioner who shall apply the money deposited by the person or so much of the deposit as is necessary to satisfy the tax, penalty, and interest due. The commissioner, when in the commissioner's judgment it is no longer necessary to require the deposit to be maintained by the depositor, shall certify that information to the director of the office of management and budget who shall pay the unused money to the depositor.

57-43.1-15. License - Contents - Authority conferred. Upon the filing of an application for a license and payment of the fee to engage in business as a dealer in motor vehicle fuel, the commissioner shall issue to the applicant a license authorizing the applicant to engage in business in this state as a dealer, as defined in section 57-43.1-01, until June thirtieth of the odd-numbered year following the date of issuance of the license, unless the license is revoked within that period by the commissioner as provided by law.

57-43.1-16. Report by dealer to commissioner. Each dealer in motor vehicle fuel who engages in the sale or use of motor vehicle fuel in this state shall render to the commissioner, not later than the twenty-fifth day of each calendar month, on the form prescribed, prepared, and furnished by the commissioner a statement witnessed by two witnesses, of the number of gallons [liters] of motor vehicle fuel sold, used, received, and delivered by that dealer during the preceding calendar month. If the commissioner deems it necessary to ensure the payment of the tax imposed by this chapter, the commissioner 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 must 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 must be made by the managing agent or owner. The report must 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. If any 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 must show the amount of motor vehicle fuel so sold and delivered, and the names and addresses of the persons to whom it was sold and delivered.

57-43.1-17. Commissioner to audit statement and assess tax.

1. Except as otherwise provided in this section, the 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, the commissioner shall notify the dealer in detail of the reason for the increase.
2. If a dealer omits from a statement a properly includable gallonage amount 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 the 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. If false or fraudulent information is given in a statement, or if 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 do not apply, and the tax may be assessed, or a proceeding in court for the collection of the tax may be begun without such assessment, at any time.
4. If before the expiration of the time prescribed in subsections 1 and 2 for the assessment of tax, the 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.

57-43.1-18. Sale in original package - Invoice - Delivery of copies. When a dealer in motor vehicle fuel makes a sale in the original package in which the fuel was imported, the dealer shall deliver to the purchaser an invoice of the fuel, stating the name and address of the purchaser, the quantity and kind of fuel sold and delivered and whether or not the dealer has collected the tax on the fuel. The dealer shall transmit to the commissioner, at the time that the statement required by section 57-43.1-16 is rendered, duplicate copies of all invoices issued and delivered to purchasers during the period covered by the statement.

57-43.1-19. Sale to consumer in original package - Invoice required. No person may purchase, receive, or accept any motor vehicle fuel from any dealer in the original package in which it was imported into the state under the provisions of section 57-43.1-16 unless the invoice prescribed in section 57-43.1-18 is delivered to the purchaser by the dealer at the time of the purchase or receipt of such motor vehicle fuel.

57-43.1-20. Tax chargeable to consumer. Every dealer required to collect the motor vehicle fuel tax imposed by this chapter shall charge and collect the tax on all motor vehicle fuel sold by that dealer, except as provided in section 57-43.1-18, as a part of the selling price of the fuel.

57-43.1-21. Failure to file report - Penalty - Revocation of license - Excuse for delay. If the holder of a license to sell motor vehicle fuel fails to file the report required to be filed, or to pay the full amount of the tax as required by this chapter, there is imposed a penalty of five dollars, or a sum equal to five percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction of a month during which the failure continues, excepting the month within which the report was required to be filed

or the tax became due. The commissioner may revoke the license and, if so, the commissioner shall notify the licenseholder promptly by a notice sent by registered or certified mail to the post-office address of the licenseholder as it appears in the commissioner's records. However, if the 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 commissioner may continue the license in full force and effect. The commissioner, for good cause shown, may waive all or any part of the penalty or interest provided by this section.

57-43.1-22. Conditions precedent to reinstatement of license. Before another license will be issued to a dealer whose license has been revoked, the dealer must pay to the commissioner the amount of the delinquent tax, with penalties and costs remaining unpaid by the dealer, and must file with the commissioner a surety bond upon which the dealer is the obligor. The bond must be in an amount the commissioner determines but not exceeding three times the amount of the state tax on all motor vehicle fuel sold by the dealer during the preceding month, and not less than two thousand dollars. The bond must run to the state of North Dakota and must be conditioned upon the prompt filing of true reports and the payment of the full amount of the tax at the times, in the manner, and at the place required under the provisions of this chapter. If any such dealer fails to file the monthly report required promptly and to pay the full amount of the tax due after having filed a surety bond as provided in this section, the commissioner may require the dealer to furnish further bond as is deemed necessary, conditioned to secure at all times the payment of any tax due to the state under the provisions of this chapter. Upon the failure to file such additional bond the commissioner shall revoke the license of the dealer.

57-43.1-23. Payment of tax. The tax collected upon motor vehicle fuel in any calendar month must be remitted by the dealer when the statement required in section 57-43.1-16 is rendered only on that fuel sold or used during that calendar month. The commissioner shall pay over all of the money thus received to the state treasurer.

57-43.1-24. Deduction of cost of collecting. On making payments to the commissioner as provided in this chapter, the dealer shall deduct two percent from the amount of tax due to cover the cost of collecting the tax and transmitting it to the commissioner.

57-43.1-25. Records of dealer subject to inspection. The records of all purchases, receipts, sales, distribution, and use of motor vehicle fuel of every dealer, must be retained for a period of three years, and are open to inspection by the commissioner or by any agent or employee authorized by the commissioner during business hours.

57-43.1-26. Losses - Deductions allowed to dealer - Remedies. Each dealer of motor vehicle fuel may deduct the actual shrinkage of

the total gallonage of motor fuel received during each calendar month from the statement submitted as required in section 57-43.1-16, but the allowance may not exceed one percent of the total received during that month. For purposes of this chapter, it is presumed that all motor vehicle fuel received by each dealer above this one percent allowance, except that gallonage shown as inventory at the end of each calendar month, and other allowances provided in this chapter, has been sold, delivered or used and the dealer is liable for the amount of the motor vehicle fuel tax on each gallon [liter] of motor vehicle fuel not accounted for. For purposes of this chapter, motor vehicle fuel refined at a refinery in this state and placed in storage at the refinery, and motor vehicle fuel brought into the state by pipeline and placed in storage at a pipeline terminal, is not deemed received until it is withdrawn from the refinery or terminal storage for sale or use in this state, or for shipment or delivery to destinations in this state.

57-43.1-27. Sales of motor vehicle fuels to retail dealers in motor vehicle fuels. When a wholesale dealer in motor vehicle fuels makes a sale to a retail dealer the wholesale dealer shall credit the retail dealer with one percent of the total state motor vehicle fuel tax applied to the gallonage sold. This must appear on the face of the delivery invoice at the time of delivery of the motor vehicle fuel in consideration of evaporation and shrinkage losses and the retailer's cost of collection of the tax. On making payments to the commissioner as provided in this chapter, the dealer shall deduct the total credit allowance granted on sales to retail dealers in motor vehicle fuels under the provisions of this section, in addition to other deductions allowed, from the amount of tax due.

57-43.1-28. Allocation of fuel tax. The state treasurer shall credit to the highway tax distribution fund the motor fuel tax, including interest received on the tax, collected under the provisions of this chapter. The highway tax distribution fund must be distributed in the manner prescribed by section 54-27-19.

57-43.1-29. Motor fuel and other motor vehicle taxes to be used for highway purposes. After deducting from state motor vehicle registration fees, license fees, motor fuel taxes, and other special taxes imposed on motor vehicle owners and operators, other than drivers' license fees, the cost of administration and collection authorized by legislative appropriation only, the proceeds remaining must be used for the construction, improvement, and maintenance of highways and the associated expenses of administration and for no other purpose, except the proceeds remaining as revenue from aviation gasoline taxes and unclaimed aviation motor fuel refunds and other aviation motor fuel excise and license taxation used by aircraft.

57-43.1-30. Administration - Assistance authorized - Rules. The commissioner shall administer this chapter. The commissioner may employ such assistance as may be necessary for the efficient administration and enforcement of this chapter and may make

reasonable rules relating to the administration and enforcement of this chapter.

57-43.1-31. Penalty. Any dealer, purchaser, or other person who collects or causes to be repaid to him or to any other person, any tax to which he is not entitled, or who violates any other provision of this chapter, is guilty of a class A misdemeanor.

57-43.1-32. Erroneously or illegally collected taxes. If any taxes, penalties, or interest imposed by this chapter have been erroneously or illegally collected from any person, the commissioner may permit that person to take credit against a subsequent tax return for the amount of the erroneous or illegal overpayment. In the alternative, the commissioner shall present a voucher to the office of management and budget for payment of the amount erroneously or illegally collected and a warrant-check shall be prepared by that office drawn on the state treasurer payable to that person. The refund must be paid to the person from undistributed funds received from the tax imposed by this chapter and any credit or refund may not be approved or paid unless it is an amount which is in excess of ten dollars.

57-43.1-33. Levy of importer for use tax. A tax is imposed on all importers for use at the same rate as prescribed by section 57-43.1-02 as now or hereafter amended on motor vehicle fuel used in the propulsion of motor vehicles upon the public highways in this state. Credit must be given for the North Dakota fuel tax paid on all such fuel.

57-43.1-34. Computation. The amount of fuel used in interstate fleet operations is determined by using a factor the numerator of which is the total miles [kilometers] operated in this state, and the denominator of which is the total miles [kilometers] operated by the importer for use both within and without this state applied to the total of that fuel used by the importer for use both within and without this state.

57-43.1-35. Exemptions. The tax levied under section 57-43.1-33 does not apply to fuel imported into and used in this state in:

1. Operating motor vehicles commonly designated as automobiles which are constructed for and being used solely for the transportation of persons for purposes other than for hire or compensation.
2. Operating a motor vehicle having a motor fuel supply tank or tanks with an aggregate capacity of not more than thirty-five gallons [132.48 liters] if such vehicle is not being used as a common or contract carrier of persons or property or as a private commercial carrier of property.
3. Operating vehicles of the government of the United States or any of its agencies, any state, or any political

subdivision of any state, provided no exemption of the tax levied by section 57-43.1-33 may be construed as an exemption from any other tax levied by law.

57-43.1-36. Importer for use license required. Before any person imports fuel into this state in the fuel supply tank of any motor vehicle, that person shall file application for and obtain an importer for use license. Persons exempted from the tax levied under section 57-43.1-33 are not required to obtain such license. All applications for an importer for use license must be on forms furnished by the commissioner and must contain such information as the commissioner requires.

57-43.1-37. Issuance and display. If the commissioner finds the statements in the application to be true, and if the commissioner is satisfied that the application is made in good faith, the commissioner shall issue to the applicant an importer for use license bearing a distinctive number and specifying the terms of the license. The license or a photocopy of the license must be carried in the passenger compartment of each motor vehicle operated by each importer for use at all times when the motor vehicle is in this state.

57-43.1-38. Assignment forbidden. A license issued by the commissioner pursuant to this chapter is not subject to assignment or transfer, nor is such a license either a franchise or irrevocable.

57-43.1-39. Revocation, cancellation, and surrender of importer for use license. An importer for use license issued by the commissioner is in force until the license is suspended, surrendered, or revoked for cause by the commissioner. The commissioner, upon showing of failure to comply with the provisions of this chapter or rules adopted under this chapter, may suspend or revoke any license issued under this chapter upon five days' notice to the grantee and on opportunity to be heard.

57-43.1-40. Occasional trip permits. Any person who occasionally makes trips into or through North Dakota and elects to secure occasional trip permits as provided in this section is exempt from the licensing requirements imposed upon importers for use. The word "occasionally" means no more than one trip or series of trips in any seventy-two-hour period or two trips or series of trips in any two seventy-two-hour periods into or through the state of North Dakota. The commissioner or the commissioner's agent shall issue occasional trip permits for a fee of five dollars per trip pursuant to regulations and procedures prescribed by the commissioner.

57-43.1-41. Authorization of the commissioner. The commissioner may issue authorization relieving fuel dealers of the duty of collecting the tax imposed under this chapter and chapter 57-43.2 from persons who are licensed as importers for use, and who consistently purchase from North Dakota fuel dealers more fuel than is consumed in the propulsion of their motor vehicles in this state.

57-43.1-42. Credit for North Dakota purchases - Refunds. If the credit for tax paid on fuel purchased or acquired by the importer for use from sources within this state for the propulsion of motor vehicles exceeds the tax which would apply to fuel used for the propulsion of motor vehicles on the public highways of this state, the excess credit must be refunded, or credit applied for the amount against any subsequent tax return.

57-43.1-43. Importer for use tax administration, records, refunds, penalties, disposition of funds, audits, and assessments.

1. Importer for use tax must be reported, paid, collected, refunded, and administered and importers for use are subject to the same penal provisions, and importer for use tax collected must be distributed as provided in this chapter.
2. The commissioner shall audit the returns and make necessary assessments pursuant to the procedures and limitations provided for in section 57-43.1-17.

SECTION 2. AMENDMENT. Subsection 1 of section 57-51-15 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. First an amount equal to one percent of the gross value at the well of the oil and gas upon which a tax is collected under this chapter shall be deposited with the state treasurer, who shall distribute the revenues in the following manner:
 - a. For taxes received between July 1, 1981, and June 30, 1983:
 - (1) The treasurer shall first distribute an amount which, when added to that distributed to townships from nonrefunded motor vehicle fuel and special fuel taxes under section 57-50-01 57-43.1-03, will result in a total distribution to townships under these two sections of eight million dollars for the 1981-83 biennium. The same distribution formula shall be used for moneys allocated to townships under this section as under 57-50-01 57-43.1-03;
 - (2) The treasurer shall next distribute an amount which, when added to the sum distributed under paragraph 1, does not exceed thirty-two million dollars for the 1981-83 biennium, to the highway tax distribution fund established under section 54-27-19; and
 - (3) The treasurer shall finally distribute any amount over thirty-two million dollars generated by this

subsection for the 1981-83 biennium to the state general fund.

- b. For any taxes received after June 30, 1983, all revenues shall be credited to the state general fund.

* SECTION 3. REPEAL. Chapters 57-50, 57-54, and 57-54.1 of the North Dakota Century Code are hereby repealed.

SECTION 4. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 10, 1983

- * NOTE: Chapter 57-54.1 was also repealed by section 3 of House Bill No. 1072, chapter 657.

Section 57-54.1-11 was amended by section 1 of House Bill No. 1312, chapter 665.

Section 57-54.1-12 was amended by section 3 of House Bill No. 1701, chapter 426.

CHAPTER 657

HOUSE BILL NO. 1072
(Legislative Council)
(Interim Tax Statutes Revision Committee)

SPECIAL FUELS TAX LAW CONSOLIDATION

AN ACT to create and enact chapters 57-43.2 and 57-43.3 of the North Dakota Century Code, relating to consolidation of provisions of the Special Fuels Tax Act, the special fuels tax levy, the Importers for Use Tax Act, and the aviation fuel tax; to repeal chapters 57-52, 57-53, 57-54.1, and 57-56 of the North Dakota Century Code, relating to the special fuels tax, the special fuels tax levy, the importers for use tax, and the aviation fuel tax; to provide penalties; and to declare an emergency.

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

SECTION 1. Chapter 57-43.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-43.2-01. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Commissioner" means the state tax commissioner.
2. "Farm-to-market roads" means any road within the county which is not on the North Dakota state highway system, and which qualifies for federal aid matching funds.
3. "Highway" means every way or place generally open to the use of the public for the purpose of vehicular travel notwithstanding that it may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction.
4. "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 does 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.

5. "Importer for use" means any person importing fuel into this state in the fuel supply tank or tanks of any motor vehicle. In the case of motor vehicles that are leased or rented, the importer for use means the lessee or renter unless the commissioner has designated the lessor, renter, or some other person as the importer for use.
6. "Motor vehicle" means any vehicle propelled by an internal combustion engine and licensed for operation or operated upon the highways.
7. "Person" includes every natural person, fiduciary, association, or corporation. Whenever used in any cause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof.
8. "Sale" means the receipt, delivery, or transfer of title to special fuels by a special fuel dealer to a special fuel user.
9. "Special fuel" means all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles and includes all gases and liquids which meet the specifications as determined by the state laboratories department pursuant to the provisions of section 19-10-10, as well as all liquids determined by the state laboratories department to be heating oil pursuant to the provisions of section 19-10-10, and agriculturally derived alcohol if used in a pure state or if blended with another agriculturally derived liquid, except that it does not include either motor vehicle fuels as defined in section 57-43.1-01, or antifreeze as defined by section 19-16.1-02.
10. "Special fuel dealer" means any person in the business of handling special fuel who delivers or sells any special fuel to a special fuel user.
11. "Special fuel user" means any person receiving or purchasing special fuel except that it does not include a person purchasing or receiving special fuels when such fuel is to be used for heating, agricultural, or railroad purposes or for industrial purposes other than in the performance of a contract with any unit of government nor shall it include a special fuels dealer purchasing or receiving special fuel for resale.
12. "Use" means the consumption of fuel to propel a motor vehicle upon the public highways.

13. "Wholesale dealer of liquefied petroleum gas" means any person who delivers or sells that fuel known as liquefied petroleum gas, commonly called "propane" or "butane", to any retail dealer, or user of liquefied petroleum gas.

57-43.2-02. Tax imposed - Exemptions. An excise tax of eight cents per gallon [3.79 liters] is imposed on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, or railroad purposes or for industrial purposes other than in the performance of a contract with any unit of government is exempt from the tax imposed by this chapter, provided that the sale or delivery of special fuel for use in a motor vehicle is not exempt. The tax imposed by this section on agriculturally derived alcohol if used in a pure state or if blended with another agriculturally derived liquid is four cents per gallon [3.79 liters]. The tax attaches at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user or unlicensed dealer. The special fuel dealer shall collect the tax from the special fuel user and pay the tax to the commissioner as provided in this chapter. Except as prohibited by section 57-43.1-09 the tax is refundable when used for nonhighway purposes, and the provisions and procedures of chapter 57-43.1 relating to the refund of motor fuel taxes apply to the tax imposed by this chapter, provided that the amount refunded for any special fuel does not include the amount of tax imposed by section 57-43.2-03 on the sale of that fuel.

57-43.2-03. Tax levied. A special excise tax of two percent is imposed on all sales of special fuel which are exempted from the tax imposed under section 57-43.2-02 to a special fuel user and on all sales of special fuels which are taxed under this chapter if that tax is later refunded to a special fuel user. The rate applies to the sale price of the special fuels less any discounts for any purposes allowed and taken on the sales.

57-43.2-04. Collection and payment of tax. The tax imposed by section 57-43.2-03 attaches at the time of sale of any special fuel by a special fuel dealer to a special fuel user. The special fuel dealer shall collect the tax from the special fuel user and pay the tax to the commissioner as provided in this chapter unless the tax is collected as provided in section 57-43.2-02 if the tax imposed by that section was paid to the commissioner and refunded to the special fuel user.

57-43.2-05. Special fuel dealer's license required. No person may act as a special fuel dealer in this state unless that person is a holder of an uncanceled special fuel dealer's license issued by the commissioner. Application for a special fuel dealer's license shall be made to the commissioner and a separate license is required for each separate place of business or location where special fuels are regularly sold, delivered, or placed into the tanks of bulk supply vehicles for delivery into supply tanks of special fuel users. The application must be filed upon a form prepared and furnished by the

commissioner and shall contain such information as the commissioner requires.

57-43.2-06. License, fee and bond. No person may act as a special fuel dealer in this state unless the person complies with the provisions of sections 57-43.2-05, 57-43.2-07, 57-43.2-08, and 57-43.2-09.

57-43.2-07. Special fuel dealer's bond.

1. Except as provided in this section, no special fuel dealer's license shall be issued to any person or continued in force unless the person has furnished a surety bond in the form and amount as the commissioner requires, but not less than five hundred dollars, to secure his compliance with this chapter and the payment of all taxes, interest, and penalties due or to become due.
2. The commissioner may waive the filing of a bond if, upon investigation, it is found that the bond may be waived without impairing or jeopardizing the revenue collections of this state, or in lieu of a bond, securities, including letters of credit, approved by the commissioner in such amounts as the commissioner prescribes, may be deposited with the commissioner, which securities must be kept in the custody of the commissioner and may be sold at public or private sale, without notice to the depositor, if it becomes necessary in order to recover any tax, penalties, or interest due. The commissioner shall pay all moneys deposited as security with the commissioner under the provisions of this subsection to the state treasurer who shall credit them into a special fund to be known as the "special fuels tax security trust fund". If any tax, penalty, or interest imposed by this chapter is not paid when due, by the person depositing moneys with the tax commissioner as security for the payment of tax, penalty, or interest imposed by this chapter, the commissioner shall certify that information to the director of the office of management and budget. The office of management and budget shall transmit the money to the commissioner who shall apply as much of the money deposited by the person as is necessary to satisfy the tax, penalty, and interest due. When in the commissioner's judgment it is no longer necessary to require the deposit to be maintained by the person, the commissioner shall certify that information to the director of the office of management and budget who shall pay the unused money to the person.

57-43.2-08. Issuance of licenses, fees. Upon receipt of the application and bond in proper form and upon the payment by the applicant of a special fuel dealer's license fee of ten dollars, the commissioner shall issue to the applicant a license to act as a special fuel dealer. The commissioner may refuse to issue a special

fuel dealer's license to any person who formerly held such a license but which was revoked prior to the time of filing the application, or who is a subterfuge for the real party of interest whose license prior to the time of filing of the application has been revoked, or upon other sufficient cause being shown. Before such refusal the commissioner shall grant the applicant a hearing and give the applicant at least ten days' written notice of the time and place of hearing. Each special fuel dealer's license is valid until suspended or revoked for cause or otherwise canceled. No special fuel dealer's license is transferable.

57-43.2-09. Revocation, cancellation, and surrender of license and bond. The commissioner may revoke the license of any special fuel dealer for reasonable cause. Before revoking any license the commissioner shall notify the licensee to show cause within fifteen days of the date of the notice why such license should not be revoked. Any time prior to and pending hearing the commissioner may, in the exercise of reasonable discretion, suspend the license. The commissioner shall cancel any license to act as a special fuel dealer immediately upon the surrender of the license by the holder.

57-43.2-10. Special fuel dealer's records. For each location where special fuel is sold or delivered to any special fuel user the special fuel dealer making the sale or delivery shall prepare and maintain such records as the commissioner may reasonably require with respect to all sales and deliveries, and with respect to inventories, receipts, purchases, sales, or other dispositions of special fuel. The records required under this section must be retained for a minimum period of three years and must be available at all reasonable times for examination by the commissioner.

57-43.2-11. Records and returns - Penalties and interest - Powers of commissioner.

1. A special fuel dealer shall keep such records and make such monthly returns and payments of the tax to the commissioner, in the manner, at the time, and pursuant to similar procedures as are provided in sections 57-43.2-10 and 57-43.2-12. The commissioner 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 commissioner as provided in this chapter, a special fuel dealer is subject to the penalties and interest as provided in this chapter.
3. The commissioner, 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 commissioner may revoke the license of any special fuel dealer under the conditions and after notice as provided in section 57-43.2-09; 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 57-43.2-15, 57-43.2-16, 57-43.2-17, and 57-43.2-20.

4. The commissioner shall enforce the provisions of this chapter and may prescribe, adopt, and enforce reasonable rules relating to the administration and enforcement of this chapter, and may examine the records of special fuel dealers and special fuel users and make such investigations as are deemed necessary in the administration and enforcement of this chapter.
5. The commissioner shall audit the returns and make necessary assessments pursuant to the procedures and limitations provided for in section 57-43.2-14.

57-43.2-12. Monthly returns and payments. Each special fuel dealer shall file with the commissioner on forms prescribed by the commissioner a monthly tax return to determine the amount of liability for the tax imposed by this chapter. The returns must contain a written declaration that they are made and subscribed under the penalties of perjury. The return must show, with reference to each location at which special fuel is sold, delivered, or placed by the dealer, such information as the commissioner may reasonably require for the proper administration and enforcement of this chapter. The special fuel dealer shall file the return on or before the twenty-fifth day of the next succeeding calendar month following the monthly period to which it relates. The reports are considered filed on time if mailed in an envelope properly addressed to the commissioner and postmarked before midnight of the final filing date. The commissioner may, for good cause, grant a taxpayer a reasonable extension of time for filing a return. Each special fuel dealer shall compute the tax imposed by this chapter by multiplying the rate of tax per gallon [3.79 liters] by the number of gallons [liters] of special fuel sold or delivered to special fuel users. The monthly tax return must be accompanied by remittance covering the tax due on special fuels sold or delivered to special fuel users during the preceding month.

57-43.2-13. Presumption. For the purpose of enforcing the provisions of this chapter, it is prima facie presumed that all special fuel received by a special fuel dealer and placed into storage or dispensing equipment normally designed to transfer and meter such fuel into fuel tanks was in fact resold and delivered to special fuel users. The commissioner has the authority to require that all storage or dispensing equipment normally used to meter and transfer special fuels into the fuel tanks of motor vehicles be metered by such suitable sealed metering device as may be prescribed by the commissioner.

57-43.2-14. Commissioner to audit returns and assess tax.

1. Except as otherwise provided in this section, the 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, the commissioner shall notify the taxpayer in detail of the reason for the increase.
2. If a special fuel dealer omits from a return a properly includable gallonage amount 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 the 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. If false or fraudulent information is given in the return, or if 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 do not apply, and the tax may be assessed, or a proceeding in court for the collection of the tax may be begun without the assessment, at any time.
4. If before the expiration of the time prescribed in subsections 1 and 2 for the assessment of tax, the 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.

57-43.2-15. Refusal or failure to file return or pay tax when due - Deficiencies - Penalties. If any special fuel dealer refuses or fails to file a return required by this chapter within the time prescribed by section 57-43.2-12, there is imposed a penalty of five dollars or a sum equal to five percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction of a month during which such refusal or failure continues, excepting the month within which the tax became due. The commissioner, for good cause shown, may waive the penalty or the interest provided by this section. If a special fuel dealer files a return but fails to pay in whole or in part the tax due under this chapter, there shall be added to the amount due and unpaid, interest at the rate of one percent per month or fraction of a month from the date the tax was due to the date of payment in full. If it is determined by the commissioner that the tax reported by any special fuel dealer is deficient, the commissioner shall proceed to assess the deficiency on the basis of

available information and add to this deficiency interest at the rate of one percent per month or fraction of a month from the date the return was due.

57-43.2-16. Determination if no return made. If any special fuel dealer, whether or not licensed as such, fails, neglects, or refuses to file a special fuel tax return when due, the commissioner shall, on the basis of available information, determine the tax liability of the special fuel dealer for the period during which no return was filed, and to the tax thus determined the commissioner shall add the penalty and interest as provided in section 57-43.2-15. An assessment made by the commissioner pursuant to this section or to section 57-43.2-15 is presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden is on the person who challenges the assessment to establish by fair preponderance of evidence that it is erroneous or excessive, as the case may be.

57-43.2-17. Fraudulent return. If any special fuel dealer files a false or fraudulent return with intent to evade the tax imposed by this chapter, there shall be added to the amount of the deficiency, determined by the commissioner, a penalty equal to ten percent of the deficiency plus interest at two percent per month, or fraction of a month on the deficiency, from the date the tax was due to the date of payment, in addition to all other penalties prescribed by law. Except in the case of a fraudulent return or of willful neglect or refusal to make a return, every deficiency must be assessed under section 57-43.2-15 within three years after the first day of the next succeeding calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires later.

57-43.2-18. Distribution of tax. All money collected by the commissioner under the provisions of this chapter must be transferred to the state treasurer who shall credit such money, interest, and penalties to the highway tax distribution fund to be distributed pursuant to section 54-27-19.

57-43.2-19. Distribution of funds. All taxes, license fees, penalties, and interest collected under this chapter shall be promptly transferred to the state treasurer who shall deposit such moneys in a highway tax distribution fund which shall be distributed in the manner as prescribed by law.

57-43.2-20. Erroneously or illegally collected taxes. If any taxes, penalties, or interest imposed by this chapter have been erroneously or illegally collected from a special fuel dealer, the commissioner may permit that special fuel dealer to take credit against a subsequent tax return for the amount of the erroneous or illegal overpayment. In the alternative, the commissioner shall present a voucher to the office of management and budget for payment of the amount erroneously or illegally collected and a warrant-check must be prepared by that office drawn on the state treasurer payable to

that special fuel dealer. The refund must be paid to the special fuel dealer from undistributed funds received from the tax imposed by this chapter and any such refund shall not be approved or paid unless it is in an amount which is in excess of ten dollars. The commissioner is not required to retain the canceled checks by which any refund has been paid for more than six years from July first of the fiscal year in which the refund check is issued.

57-43.2-21. Losses - Deductions allowed to dealer - Remedies.

1. Each dealer of special fuel other than liquefied petroleum gas is allowed to deduct the actual shrinkage of the total gallonage of special fuel received during each calendar month from the statement submitted as required in section 57-43.2-12, but such allowance shall not exceed one percent of the total received during the month. Each wholesale dealer of liquefied petroleum gas may deduct the actual shrinkage of the total gallonage received during each calendar month from the statement submitted as required in section 57-43.2-12, but this allowance may not exceed two percent of the total received during the month.
2. For the purposes of this chapter, it is presumed that all special fuel received by each dealer over and above the one percent allowance, or the two percent allowance for liquefied petroleum gas, not otherwise accounted for, but not that gallonage shown as inventory at the end of every calendar month, and other allowances provided in this chapter, has been sold, delivered, or used. The dealer is liable for the amount of the special fuel tax on each gallon [3.79 liters] of special fuel not accounted for. For purposes of this chapter, special fuel refined at a refinery in this state and placed in storage at the refinery, and special fuel brought into the state by pipeline and placed in storage at a pipeline terminal, is not deemed received until it is withdrawn from the refinery or terminal storage for sale or use in this state, or for shipment or delivery to destinations in this state.

57-43.2-22. Rules - Administration. The commissioner shall enforce the provisions of this chapter and may prescribe, adopt, and enforce reasonable rules relating to the administration and enforcement of this chapter for special fuel dealers and special fuel users. The commissioner may audit and examine the records of special fuel dealers and special fuel users and make other investigations as the commissioner deems necessary in the administration and enforcement of this chapter. If upon audit, examination, or investigation the commissioner finds additional taxes are due, the commissioner may assess the additional taxes, and the penalty and interest must be added as provided in section 57-43.2-15.

57-43.2-23. Violations. No person may:

1. Refuse or knowingly or intentionally fail to make and file any statement required by this chapter in the manner or within the time required.
2. Knowingly, or with intent to evade or aid in the evasion of the tax imposed by this chapter, make any false statement or conceal any material fact in any record, return, or affidavit provided for in this chapter.
3. Conduct any activities requiring a license under this chapter without the license or after the license has been surrendered, canceled, or revoked.
4. Assign or attempt to assign a license to act as a special fuel dealer.
5. Receive special fuel in this state into the tanks of a motor vehicle or into supply tanks for eventual use in a motor vehicle upon the highways of this state from a person not holding a valid license as a special fuel dealer.
6. Fail to keep and maintain books, records, or metering devices that are required by this chapter.

57-43.2-24. Penalties. Any person violating any provision of this chapter is guilty of a class B misdemeanor. The 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.

57-43.2-25. Liquefied petroleum gas dealers - License - Fee - Permits - Bond. It is unlawful for any person to act as a wholesale dealer in special fuel known as liquefied petroleum gas in this state unless the person is a holder of an uncanceled special liquefied petroleum gas dealer's license issued to that person by the commissioner, in addition to complying with all other provisions of this chapter. Application for the license must be made to the commissioner and a separate license is required for each separate place of business or location where liquefied petroleum gas is regularly sold, delivered, or placed into tanks of bulk supply vehicles for delivery into supply tanks of retail liquefied petroleum gas dealers or users. The cost of this license is ten dollars, which amount must accompany each application, upon a form prepared and furnished by the commissioner. The application must contain the information the commissioner deems necessary, together with a surety bond in the form and amount as the commissioner requires, but not less than five hundred dollars, except that the commissioner may waive the filing of a bond if the commissioner finds such bond may be waived without impairing or jeopardizing the revenue collections of this state.

If any person deals only in the retail selling of liquefied petroleum gas, the provisions of sections 57-43.2-06 and 57-43.2-11 do apply, but in lieu of those provisions each liquefied petroleum

gas retail dealer is required to apply to the commissioner for a liquefied petroleum gas retail dealer's permit. The cost of a permit issued by the commissioner is one dollar and expires on June thirtieth of every odd-numbered year. Each liquefied petroleum gas retail dealer shall collect the special fuels excise tax levied under section 57-43.2-03, and shall transmit quarterly all taxes collected to the commissioner. The commissioner shall furnish report forms requiring the information the commissioner deems necessary for the efficient administration of this section. The report must accompany the transmittal of all taxes collected by liquefied petroleum gas retail dealers.

57-43.2-26. Levy of importer for use tax. There is imposed upon all importers for use a tax at the same rate as prescribed by section 57-43.2-02 as now or hereafter amended on special fuel used in the propulsion of motor vehicles upon the public highways in the state. Credit must be given for the North Dakota fuel tax paid on all such fuel.

57-43.2-27. Computation. The amount of fuel used in interstate fleet operations is determined by using a factor the numerator of which is the total miles [kilometers] operated in this state, and the denominator of which is the total miles [kilometers] operated by the importer for use both within and without this state applied to the total of that fuel used by the importer for use both within and without this state.

57-43.2-28. Exemptions. The tax levied under section 57-43.2-26 does not apply to fuel imported into and used in this state in:

1. Operating motor vehicles commonly designated as automobiles which are constructed for and being used solely for the transportation of persons for purposes other than for hire or compensation.
2. Operating a motor vehicle having a motor fuel supply tank or tanks with an aggregate capacity of not more than thirty-five gallons [132.48 liters] if such vehicle is not being used as a common or contract carrier of persons or property or as a private commercial carrier of property.
3. Operating vehicles of the government of the United States or any of its agencies, any state, or any political subdivision of any state provided no exemption of the tax levied by section 57-43.2-26 may be construed as an exemption from any other tax levied by law.

57-43.2-29. Importer for use license required. Before any person imports fuel into this state in the fuel supply tank of any motor vehicle, that person shall file application for and obtain an importer for use license. Persons exempted from the tax levied under section 57-43.2-26 are not required to obtain such license. All applications for an importer for use license must be on forms furnished by the commissioner and must contain such information as

the commissioner requires. If the license required by section 57-43.1-38 has been obtained, no license is required pursuant to this section.

57-43.2-30. Issuance and display. If the commissioner finds the statements in the application to be true, and if the commissioner is satisfied that the application is made in good faith, the commissioner shall issue to the applicant an importer for use license bearing a distinctive number and specifying the terms of the license. The license or a photocopy of the license must be carried in the passenger compartment of each motor vehicle operated by each importer for use at all times when the motor vehicle is in this state.

57-43.2-31. Assignment forbidden. A license issued by the commissioner pursuant to this chapter is not subject to assignment or transfer, nor is such a license either a franchise or irrevocable.

57-43.2-32. Revocation, cancellation, and surrender of importer for use license. An importer for use license issued by the commissioner is in force until the license is suspended, surrendered, or revoked for cause by the commissioner. The commissioner, upon showing of failure to comply with the provisions of this chapter or rules adopted under this chapter, may suspend or revoke any license issued under this chapter upon five days' notice to the grantee and on opportunity to be heard.

57-43.2-33. Occasional trip permits. Any person who occasionally makes trips into or through North Dakota and elects to secure occasional trip permits as provided in this section is exempt from the licensing requirements imposed upon importers for use. The word "occasionally" means no more than one trip or series of trips in any seventy-two-hour period or two trips or series of trips in any two seventy-two-hour periods into or through the state. The commissioner or the commissioner's agent shall issue occasional trip permits for a fee of five dollars per trip pursuant to regulations and procedures prescribed by the commissioner.

57-43.2-34. Authorization of the commissioner. The commissioner may issue authorization relieving fuel dealers of the duty of collecting the tax imposed under this chapter and chapter 57-43.1 from persons who are licensed as importers for use, and who consistently purchase from North Dakota fuel dealers more fuel than is consumed in the propulsion of their motor vehicles in this state.

57-43.2-35. Credit for North Dakota purchases - Refunds. If the credit for tax paid on fuel purchased or acquired by the importer for use from sources within this state for the propulsion of motor vehicles exceeds the tax which would apply to fuel used for the propulsion of motor vehicles on the public highways of this state, the excess credit must be refunded, or credit applied for the amount against any subsequent tax return.

57-43.2-36. Importer for use tax administration, records, refunds, penalties, disposition of funds, audits, and assessments.

1. Importer for use tax must be reported, paid, collected, refunded, and administered and importers for use are subject to the same penal provisions, and importer for use tax collected must be distributed as provided in this chapter.
2. The commissioner shall audit the returns and make necessary assessments pursuant to the procedures and limitations provided for in section 57-43.2-14.

SECTION 2. Chapter 57-43.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-43.3-01. Definitions. As used in this chapter unless the context otherwise requires:

1. "Aviation fuel" means aviation gasoline, jet motor fuel, and other motor fuel used by aircraft.
2. "Commission" means the North Dakota aeronautics commission.
3. "Commissioner" means the North Dakota tax commissioner.
4. "Dealer" means aviation fuel dealer.
5. "User" means aviation fuel user.

57-43.3-02. Imposition and collection of tax. An excise tax of eight cents per gallon [3.79 liters] is hereby imposed on the sale or delivery of aviation fuel by a dealer to a user. The dealer shall collect the tax from the user and pay the tax to the commissioner.

57-43.3-03. Refund of tax. Any user shall be reimbursed the tax levied by section 57-43.3-02 pursuant to the provisions of chapter 57-43.1.

57-43.3-04. Separate and additional tax imposed. In addition to any other tax imposed in this chapter, there is hereby imposed a special excise tax of four percent on the sale of aviation fuel on which a tax is levied by section 57-43.3-02 and which is refunded under the provisions of section 57-43.3-03.

57-43.3-05. Administration of tax. The commissioner shall administer this chapter and is empowered to adopt reasonable rules and regulations relating to administration and enforcement. The commissioner shall audit returns and make assessments pursuant to section 57-43.2-14. The commissioner shall be authorized and empowered to determine the purchase price of aviation fuel used by aircraft and at the time of approving a refund of the taxes imposed by section 57-43.3-02 on such fuel, he shall deduct the tax imposed

by section 57-43.3-04 from the amount of such refund. Claims for refund of taxes imposed by section 57-43.3-02 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 57-43.1.

57-43.3-06. Distribution of revenue. The tax collected by the commissioner pursuant to section 57-43.3-04 shall be deposited by the commissioner in the office of the state treasurer, who shall deposit such moneys in a special fund known as the state aeronautics commission construction fund. These funds are hereby appropriated to the commission and shall be disbursed by warrant-check prepared by the office of management and budget upon vouchers submitted by the commission and approved by the office of management and budget for the purpose of matching of any funds made available by political subdivisions or airport authorities of this state, the state, or the United States, only if the political subdivision or airport authority is not qualified for or does not receive any funds under section 2-05-06.5. These funds shall be used for airport construction or improvement projects including airport administration and terminal buildings, hangars, landing strips for aircraft, and purchase of sites for airports or landing fields and easements; and for maintenance, clearing of sites, marking, lighting, and engineering and navigational aids, all related to aeronautics in amounts as the commission may determine and upon projects as the commission may approve.

57-43.3-07. Allocation of unclaimed refund revenue. The tax collected by the commissioner pursuant to section 57-43.3-02, upon which no refund is claimed, and those revenues remaining as unclaimed refunds shall be deposited in the office of the state treasurer, who shall deposit such moneys in a special fund known as the state aeronautics commission special fund. These funds are hereby appropriated to the commission and shall be disbursed by warrant-check prepared by the office of management and budget upon vouchers submitted by the commission and approved by the office of management and budget and shall be administered and expended by the commission for construction, reconstruction, repair, maintenance, and operation of airports near communities, recreational areas, or parks including the international peace garden airport and for necessary expenses and for the purchase of land and easements for such facilities.

* **SECTION 3. REPEAL.** Chapters 57-52, 57-53, 57-54.1, and 57-56 of the North Dakota Century Code are hereby repealed.

SECTION 4. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 10, 1983

* **NOTE:** Chapter 57-54.1 was repealed by section 3 of House Bill No. 1073, chapter 656; Section 57-54.1-11 was amended by section 1 of House Bill No. 1312, chapter 665; section 57-54.1-12 was amended by section 3 of House Bill No. 1701, chapter 426.

CHAPTER 658

HOUSE BILL NO. 1282
(Conmy)

DIESEL FUEL BLENDED WITH RECOVERED OIL

AN ACT to amend and reenact section 57-52-04 of the North Dakota Century Code, or in the alternative if House Bill No. 1072 is approved by the forty-eighth legislative assembly, section 57-43.2-02 of the North Dakota Century Code, to provide a four cent per gallon tax reduction on diesel fuel blended with recovered oil for the 1983-85 biennium.

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

* SECTION 1. AMENDMENT. Section 57-43.2-02 of the North Dakota Century Code as created by House Bill No. 1072, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

57-43.2-02. Tax imposed - Exemptions. An excise tax of eight cents per gallon [3.79 liters] is imposed on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, or railroad purposes or for industrial purposes other than in the performance of a contract with any unit of government is exempt from the tax imposed by this chapter, provided that the sale or delivery of special fuel for use in a motor vehicle is not exempt. From July 1, 1983, through June 30, 1985, the tax imposed by this section on fuel consisting of a blend of diesel fuel and not less than ten percent recovered oil shall be four cents per gallon [3.79 liters] less than the nonagriculturally derived special fuel excise tax provided in this section. The tax imposed by this section on agriculturally derived alcohol if used in a pure state or if blended with another agriculturally derived liquid is four cents per gallon [3.79 liters]. The tax attaches at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user. The special fuel dealer shall collect the tax from the special fuel user and pay the tax to the commissioner as provided in this chapter. Except as prohibited by section 57-43.1-09 the tax is refundable when used for nonhighway purposes, and the provisions and procedures of chapter 57-43.1 relating to the refund of motor fuel taxes apply to the tax imposed by this chapter, provided that the amount

* NOTE: Section 57-43.2-02 was also amended by section 2 of House Bill No. 1539, chapter 664.

refunded for any special fuel does not include the amount of tax imposed by section 57-43.2-03 on the sale of that fuel.

SECTION 2. AMENDMENT. If House Bill No. 1072 does not become effective, section 57-52-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-04. Tax imposed - Exemptions. There is hereby levied and imposed an excise tax of eight cents per gallon [3.79 liters] on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, or railroad purposes or for industrial purposes other than in the performance of a contract with any unit of government shall be exempt from the tax imposed by this chapter, provided that the sale or delivery of special fuel for use in a motor vehicle shall not be exempt. However, from July 1, 1983, through June 30, 1985, the tax imposed by this section on fuel consisting of a blend of diesel fuel and not less than ten percent recovered oil shall be four cents per gallon [3.79 liters] less than the nonagriculturally derived special fuel excise tax provided in this section. Provided, however, the tax imposed by this section on agriculturally derived alcohol if used in a pure state or if blended with another agriculturally derived liquid shall be four cents per gallon [3.79 liters]. Said tax shall attach at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state tax commissioner as hereinafter provided. Except as prohibited by section 57-50-05.1, the tax imposed herein shall be refundable when used for nonhighway purposes, and the provisions and procedures of chapter 57-50 relating to the refund of motor fuel taxes shall apply to the tax imposed by this chapter, provided that the amount refunded for any special fuel shall not include the amount of tax imposed by section 57-53-02 on the sale of that fuel.

Approved March 11, 1983

CHAPTER 659

SENATE BILL NO. 2198
(Committee on Political Subdivisions)
(At the request of the Bank of North Dakota)

COUNTY AUTHORITY TO BORROW MONEY

AN ACT to amend and reenact sections 57-47-01, 57-47-02, 57-47-03, and 57-47-04 of the North Dakota Century Code, relating to the powers of a county to borrow money to meet deficiencies and to levy a general tax for the repayment of such a loan.

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

SECTION 1. AMENDMENT. Section 57-47-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-47-01. Bank of North Dakota and banking associations may lend money to counties - Levy of general tax in county. The Bank of North Dakota and any banking association may make loans to counties for the purposes specified by this chapter upon such terms, conditions and under such rules and regulations as the industrial commission or the state banking board may prescribe or approve. Upon the completion of such the loan the county making application therefor shall levy a general tax upon all of the taxable property of the county for the repayment thereof of the loan, with interest, when said the debt shall mature.

SECTION 2. AMENDMENT. Section 57-47-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-47-02. County authorized to borrow - Term - Interest rate. Whenever in the judgment of the board of county commissioners all taxes authorized to be levied in any one year for general or special county purposes, are insufficient to carry on the primary governmental functions, or to pay the mandatory obligations imposed by law upon a county, then such a county may borrow money from the Bank of North Dakota or a banking association in such an amount as the board shall determine to be necessary to meet the deficiencies existing in its general or special funds, or to carry on primary governmental functions, and to pay mandatory obligations. For the purpose of borrowing, a county may issue an evidence of indebtedness, which must consist of an agreement by the county to pay a stated sum on a specified date, or on or before a specified

date, not more than five years in the future, together with interest thereon at a rate or rates resulting in an average annual net interest cost not to exceed twelve percent per annum if sold privately, or with no interest rate ceiling if sold at a public sale or to the Bank of North Dakota. A public sale must comply with the procedures set out in chapter 21-03. There is no requirement for an advertisement for bids if an evidence of indebtedness is sold privately or to the Bank of North Dakota.

SECTION 3. AMENDMENT. Section 57-47-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

* SECTION 4. AMENDMENT. Section 57-47-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-47-04. Levy of tax to repay loan - Limitation. Upon the approval of an application for a loan ~~by the Bank of North Dakota~~, the board of county commissioners ~~applying for such loan~~ shall be required to levy a general tax from year to year upon all of the general taxable property of the county, not to exceed three mills for any one year, for the purpose of providing funds sufficient to repay the amount of ~~said the~~ loan, with interest, at the time of maturity ~~such loan to be evidenced by the issuance of certificates of indebtedness in the same manner and form as now prescribed by law.~~ The levy of ~~said the~~ tax shall not be subject to any existing mill levy limitations for general or special county purposes, but shall be in addition thereto. The tax shall be levied and collected ~~at the same time when and in the same manner~~ as other general or special taxes for county purposes are levied and collected and may not exceed three mills for any one year regardless of the number of loans outstanding under this chapter.

Approved March 17, 1983

* NOTE: Section 57-47-04 was also amended by section 101 of Senate Bill No. 2065, chapter 606.

CHAPTER 660

HOUSE BILL NO. 1419
(Schneider)

RECLAIMED OIL TAX

AN ACT to create and enact a new section to chapter 57-51 of the North Dakota Century Code, relating to the taxation of oil recovered from tank bottoms, pit oil, and saltwater.

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

SECTION 1. A new section to chapter 57-51 of the North Dakota Century Code is hereby created and enacted to read as follows:

Reclamation of oil - Refiner to pay tax - Reports required. On all oil reclaimed from tank bottoms, pit oil, and saltwater the gross production tax shall be paid by the operator of the reclaiming plant, unless taxes have already been paid thereon. Every person, firm, association, or corporation engaged in the sale, purchasing, and refining of tank bottoms, pit oil, and saltwater shall report to the commissioner, upon forms prescribed by the commissioner, information necessary to the enforcement of this section.

Approved March 14, 1983

CHAPTER 661

SENATE BILL NO. 2049
(Legislative Council)
(Interim Finance and Taxation Committee)

GROSS PRODUCTION TAX COUNTY ALLOCATION CAP

AN ACT to amend and reenact subsection 2 of section 57-51-15 of the North Dakota Century Code, relating to maximum allocations of annual revenues to counties from the oil and gas gross production tax.

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

SECTION 1. AMENDMENT. Subsection 2 of section 57-51-15 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The first one million dollars of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county shall be allocated seventy-five percent to that county and twenty-five percent to the state general fund. The second one million dollars of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county shall be allocated fifty percent to that county and fifty percent to the state general fund. All annual revenue after the deduction of the amount provided for in subsection 1 above two million dollars from oil or gas produced in any county shall be allocated twenty-five percent to that county and seventy-five percent to the state general fund. However, the amount to which each county shall be entitled pursuant to this subsection shall be limited based upon the population of the county according to the last official decennial federal census as follows:
 - a. Counties having a population of three thousand or less shall receive no more than three million ~~two~~ nine hundred thousand dollars for ~~the first~~ each year of the ~~1981-83~~ 1983-85 biennium and ~~no more than three million eight hundred thousand dollars~~ the second year of that biennium.

- b. Counties having a population of over three thousand but less than six thousand shall receive no more than three four million five one hundred thousand dollars the first for each year of the 1981-83 1983-85 biennium and no more than four million dollars the second year of that biennium.
- c. Counties having a population of six thousand or more shall receive no more than four million six hundred thousand dollars the first for each year of the 1981-83 1983-85 biennium and no more than four million five hundred thousand dollars the second year of that biennium.

Any allocations for any county pursuant to this subsection which exceed the applicable limitation for that county as provided in subdivisions a through c shall be deposited instead in the state's general fund.

Approved April 14, 1983

CHAPTER 662

HOUSE BILL NO. 1200
(Committee on Finance and Taxation)
(At the request of the Industrial Commission)

PROPERTY DEFINED FOR EXTRACTION TAX PURPOSES

AN ACT to amend and reenact subsection 3 of section 57-51.1-01 of the North Dakota Century Code, relating to the definition of property for extraction tax purposes.

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

SECTION 1. AMENDMENT. Subsection 3 of section 57-51.1-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Property" means the right which arises from a lease or fee interest, as a whole or any designated portion thereof, to produce oil. A producer ~~may~~ shall treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil; provided, that such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.

Approved March 11, 1983

CHAPTER 663

HOUSE BILL NO. 1724
(Swiontek, Unhjem, Hughes, Lipsiea, R. Anderson)

OIL EXTRACTION TAX DEVELOPMENT FUND

AN ACT to provide for distribution of certain education aid funds; to amend and reenact sections 57-51.1-07 and 57-51.1-08 of the North Dakota Century Code, relating to allocation of moneys in the oil extraction tax development fund and to legislative intent; to provide an effective date; and to declare an emergency.

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

* SECTION 1. AMENDMENT. Section 57-51.1-07 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-51.1-07. Allocation of moneys in oil extraction tax development fund. Moneys deposited in the oil extraction tax development fund shall be apportioned quarterly by the state treasurer as follows:

1. Sixty percent shall be allocated to the state school aid program for use in accordance with the provisions of chapter 15-40-1. It is the intent of the electors and the legislative assembly that the allocation made by this subsection shall not exceed seventy percent of the educational cost per pupil in public elementary and secondary education as determined under the provisions of chapter 15-40-1. Should the allocation exceed seventy percent, the balance of the allocation above seventy percent shall be deposited in the general fund. Should the allocation not exceed seventy percent, it is the intent of the electors and the legislative assembly that other appropriations made by the legislative assembly for state aid to schools in accordance with chapter 15-40-1, when added to the amount allocated under this subsection, shall provide at least seventy percent of the funds required to meet the educational cost per pupil in public elementary and secondary education as determined under the provisions of chapter 15-40-1.

* NOTE: Section 57-51.1-07 was also amended by section 11 of Senate Bill No. 2342, chapter 686.

2- Ten percent shall be allocated and credited to the sinking fund established for payment of the state of North Dakota water development bonds, southwest pipeline series, and any moneys in excess of the sum necessary to maintain the accounts within the sinking fund and for the payment of principal and interest on the bonds, shall be credited to a special trust fund, to be known as the resources trust fund, ~~to~~. The resources trust fund shall be established in the state treasury and the funds therein shall be deposited and invested as are other state funds to earn the maximum amount permitted by law which income shall be deposited in the resources trust fund. ~~Provided, the first fifteen million dollars allocated and credited to the resources trust fund shall be appropriated by the legislative assembly for Grafton state school for the remodeling or reconstruction and equipping of existing buildings and other facilities, for the construction and equipping of new buildings and other facilities, and for providing additional staffing for that institution, as shall be provided by the legislative assembly. The principal and income of the resources trust fund may be expended only pursuant to legislative appropriation and shall be available to:~~

- a. The state water ~~conservation~~ commission for planning for and construction of comprehensive water supply facilities, including rural water systems; and
- b. The industrial commission for the funding of programs for development of energy conservation and renewable energy sources; for studies for development of cogeneration systems that increase the capacity of a system to produce more than one kind of energy from the same fuel; for studies for development of waste products utilization; and for the making of grants and loans in connection therewith.

3- 2. ~~Thirty~~ Ninety percent shall be allocated and credited to the state's general fund for general state purposes.

SECTION 2. AMENDMENT. Section 57-51.1-08 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-51.1-08. Intent. It is the intent of the electors of the state of North Dakota and the legislative assembly to ~~increase the funding of educational opportunities for students in the elementary and secondary schools~~ fund public elementary and secondary education in North Dakota at the level of seventy percent of the educational cost per pupil as determined under the provisions of chapter 15-40.1, to provide funds for Grafton state school, and to provide for water development and utilization and energy conservation and development programs, ~~and to equalize the tax structure and revenue~~

sources of the state by enactment of an excise tax to be known as the "oil extraction tax" and enactment of an income tax credit.

The legislative assembly has determined that many areas within the state of North Dakota do not have adequate water supplies for municipal, domestic, livestock, light industrial, and other uses. However, adequate water supplies are essential for the social and economic stability of municipalities and rural areas. It is, therefore, declared to be in the best interest of the people of the state of North Dakota to establish a resources trust fund to be used to construct, or assist in the construction of, multiple use water supply facilities. The legislative assembly also recognizes that appropriate planning to meet current and long-range water needs for the benefit of all of the citizens of the state of North Dakota is a matter of concern and high priority. The legislative assembly further intends that revenues, generated by use of any facilities constructed, in whole or in part, with financing from the resources trust fund, shall be deposited in the resources trust fund.

SECTION 3. EFFECTIVE DATE. This Act shall be effective for all oil extraction tax proceeds for oil extracted on or after April 1, 1983 and for oil extraction tax proceeds collected on or after July 1, 1983.

SECTION 4. Distribution of education aid funds. If funds appropriated for distribution to school districts for per pupil and transportation aid become available after May first, the superintendent shall distribute the payments no later than June thirtieth.

SECTION 5. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 28, 1983

CHAPTER 664

HOUSE BILL NO. 1539
(B. Larson, Linderman, Laughlin)

MOTOR VEHICLE FUEL TAX DISTRIBUTION

AN ACT to amend and reenact section 57-52-04 of the North Dakota Century Code, or in the alternative to amend and reenact section 57-43.2-02 of the North Dakota Century Code as created by House Bill No. 1072, as approved by the forty-eighth legislative assembly; and to amend and reenact section 57-54-08 of the North Dakota Century Code, or in the alternative to amend and reenact section 57-43.1-02 of the North Dakota Century Code as created by House Bill No. 1073, as approved by the forty-eighth legislative assembly, relating to motor fuel taxes; and to provide for distribution of the increased revenue.

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

SECTION 1. AMENDMENT. Section 57-43.1-02 of the North Dakota Century Code as created by section 1 of House Bill No. 1073, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

57-43.1-02. Tax imposed on motor vehicle fuels - Tax reduced for agriculturally derived alcohol-blended fuels. A

1. Except as otherwise provided in this section, a tax of eight thirteen cents per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state except the.
2. The tax imposed on gasoline sold which contains a minimum ten percent blend of an agricultural ethyl alcohol or methanol whose purity is at least ninety-nine percent alcohol is four cents per gallon [3.79 liters].
 - a. Through December 31, 1983, four cents per gallon [3.79 liters] less than the tax imposed under subsection 1.

- b. From January 1, 1984, through December 31, 1984, five cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
 - c. From January 1, 1985, through December 31, 1985, six cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
 - d. From January 1, 1986, through June 30, 1992, four cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
 - e. After June 30, 1992, at the same rate as the tax imposed under subsection 1.
- 3. The dealer shall collect the tax imposed by this section from the consumer on all sales.
 - 4. Sales of fuel in the original package may be made to a licensed dealer, and the dealer may collect the tax imposed by this chapter, but on sales in the original package to persons other than licensed dealers, the dealer is liable for the tax.

* SECTION 2. AMENDMENT. Section 57-43.2-02 of the North Dakota Century Code as created by section 1 of House Bill No. 1072 as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

57-43.2-02. Tax imposed - Exemptions.

- 1. An excise tax of ~~eight~~ thirteen cents per gallon [3.79 liters] is imposed on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, or railroad purposes or for industrial purposes other than in the performance of a contract with any unit of government is exempt from the tax imposed by this chapter, provided that the sale or delivery of special fuel for use in a motor vehicle is not exempt.
- 2. The tax imposed by this section on agriculturally derived alcohol if used in a pure state or if blended with another agriculturally derived liquid is ~~four cents per gallon [3.79 liters];~~
 - a. Through December 31, 1983, four cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
 - b. From January 1, 1984, through December 31, 1984, five cents per gallon [3.79 liters] less than the tax imposed under subsection 1.

* NOTE: Section 57-43.2-02 was also amended by section 1 of House Bill No. 1282, chapter 658.

- c. From January 1, 1985, through December 31, 1985, six cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
 - d. From January 1, 1986, through June 30, 1992, four cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
 - e. After June 30, 1992, at the same rate as the tax imposed under subsection 1.
3. The tax attaches at the time of, sale, delivery, or transfer of title of such special fuel to a special fuel user. The special fuel dealer shall collect the tax from the special fuel user and pay the tax to the commissioner as provided in this chapter.
 4. Except as prohibited by section 57-43.1-09 the tax is refundable when used for nonhighway purposes, and the provisions and procedures of chapter 57-43.1 relating to the refund of motor fuel taxes apply to the tax imposed by this chapter, provided that the amount refunded for any special fuel does not include the amount of tax imposed by section 57-43.2-03 on the sale of that fuel.

SECTION 3. AMENDMENT. If House Bill No. 1072 does not become effective, section 57-52-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-04. Tax imposed - Exemptions. ~~There is hereby levied and imposed~~

1. Except as otherwise provided in this section, an excise tax of ~~eight~~ thirteen cents per gallon [3.79 liters] is imposed on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, or railroad purposes or for industrial purposes other than in the performance of a contract with any unit of government shall be exempt from the tax imposed by this chapter, provided that the sale or delivery of special fuel for use in a motor vehicle shall not be exempt. ~~Provided, however, the~~
2. The tax imposed by this section on agriculturally derived alcohol if used in a pure state or if blended with another agriculturally derived liquid shall be is four cents per gallon [3.79 liters];
 - a. Through December 31, 1983, four cents per gallon [3.79 liters] less than the tax imposed under subsection 1.

- b. From January 1, 1984, through December 31, 1984, five cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
- c. From January 1, 1985, through December 31, 1985, six cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
- d. From December 31, 1985, through June 30, 1992, four cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
- e. After June 30, 1992, at the same rate as the tax imposed under subsection 1.

- 3. Said The tax shall attach attaches at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user. Such The tax shall must be collected from the special fuel user by the special fuel dealer and paid over to the state tax commissioner as hereinafter provided.
- 4. Except as prohibited by section 57-50-05.1, the tax imposed herein shall be is refundable when used for nonhighway purposes, and the provisions and procedures of chapter 57-50 relating to the refund of motor fuel taxes shall apply to the tax imposed by this chapter, provided that the amount refunded for any special fuel shall not include the amount of tax imposed by section 57-53-02 on the sale of that fuel.

SECTION 4. AMENDMENT. If House Bill No. 1073 does not become effective, section 57-54-08 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-08. Tax imposed on motor vehicle fuels - Tax reduced for agriculturally derived alcohol-blended fuels. There is hereby imposed

- 1. Except as otherwise provided in this section a tax of eight thirteen cents per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state. Provided, however, the
- 2. The tax imposed by this section on gasoline sold which contains a minimum ten percent blend of an agricultural ethyl alcohol or methanol whose purity is at least ninety-nine percent alcohol shall be is four cents per gallon [3.79 liters]:
 - a. Through December 31, 1983, four cents per gallon [3.79 liters] less than the tax imposed under subsection 1.

- b. From January 1, 1984, through December 31, 1984, five cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
- c. From January 1, 1985, through December 31, 1985, six cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
- d. From December 31, 1985, through June 30, 1992, four cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
- e. After June 30, 1992, at the same rate as the tax imposed under subsection 1.
3. The tax imposed by this section shall must be collected by the dealer from the consumer on all sales.
4. Sales of fuel in the original package may be made to a licensed dealer, and he shall have the option of collecting who may collect the tax imposed by this chapter, but on sales in the original package to persons other than licensed dealers, the dealer shall be is liable for the tax thereon.

SECTION 5. Partial distribution to townships. Notwithstanding any other provision of law, one cent per gallon [3.79 liters] of the tax imposed by this Act shall not be refunded and the proceeds shall be distributed as provided in this section. The tax commissioner shall transfer the proceeds of one cent per gallon [3.79 liters] of the tax imposed by this Act to the state treasurer who shall deposit the proceeds in a township highway aid fund in the state treasury. The state treasurer shall quarterly allocate and distribute all moneys in the township highway aid fund to the counties of the state based on the length of township roads in each county compared to the length of all township roads in the state. To receive any funds under this section, organized townships must provide fifty percent matching funds. The county treasurer shall allocate the funds received to the organized townships in the county which provide fifty percent matching funds based on the length of township roads in each such organized township compared to the length of all township roads in the county. The funds received must be deposited in the township road and bridge fund and used for highway and bridge purposes. If a county has no organized townships, or has some organized and some unorganized townships, the county shall retain a pro rata portion of the funds received based on the length of roads in unorganized townships compared to the length of township roads in organized townships in the county. Moneys retained by a county for the benefit of unorganized townships under this section must be deposited in the county road and bridge fund. Moneys retained by the county treasurer due to the failure of organized townships to provide required matching funds must be returned to the state treasurer who shall deposit the funds in the highway tax distribution fund.

Approved April 19, 1983

CHAPTER 665

HOUSE BILL NO. 1312
(G. Pomeroy)

IMPORTER FOR USE LICENSE REINSTATEMENT

AN ACT to amend and reenact section 57-54.1-11 of the North Dakota Century Code, relating to a fee for motor fuel licensees who fail to file reports.

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

* SECTION 1. AMENDMENT. Section 57-54.1-11 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-11. Revocation, cancellation, and surrender of license. All importer for use licenses issued by the commissioner shall be in force until the license is suspended, surrendered, or revoked for cause by the commissioner. The commissioner may, at any time, upon showing of failure to comply with the provisions of this chapter or rules and regulations promulgated hereunder, suspend or completely revoke any license or registration issued hereunder upon five days' notice to the grantee and on opportunity to be heard. If an importer for use license has been revoked for cause, the commissioner may reinstate such license upon payment of a fifty dollar fee.

Approved March 15, 1983

* NOTE: Chapter 57-54.1 was repealed by section 3 of House Bill No. 1073, chapter 656, and section 3 of House Bill No. 1072, chapter 657.

CHAPTER 666

HOUSE BILL NO. 1370
(Hughes)

MOBILE HOME PURCHASE PRICE DISCLOSURE

AN ACT to create and enact a new section to chapter 57-55 of the North Dakota Century Code, relating to full disclosure of the purchase price of mobile homes and a sales ratio study by the state tax commissioner; to amend and reenact sections 39-18-05, 57-55-01, 57-55-08, 57-55-10, 57-55-11, and 57-55-12 of the North Dakota Century Code, relating to permits for transporting mobile homes, and taxation of mobile homes; to provide a penalty; and to provide an effective date.

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

* SECTION 1. AMENDMENT. Section 39-18-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-18-05. Width, length, and height of mobile home operated in the state of North Dakota - Oversize permits. It shall be unlawful for any person to operate or tow a mobile home upon the highways of the state of North Dakota, the length of which mobile home shall be over sixty feet [18.29 meters], or which shall have a body width of over eight feet [2.44 meters] and a height of over twelve and one-half feet [3.51 meters], except as otherwise provided in this section. Mobile homes moved in the interest of merchandising or relocation of a home shall be considered "good cause".

1. For good cause shown therefor, the state highway department may, at its discretion, issue single trip permits for movement of a mobile home exceeding statutory size to persons or firms having adequate towing vehicle and insurance coverage. The state highway department shall have authority to establish reasonable permit conditions and regulations in the interest of safety, public interest, and adverse weather conditions. The state highway department shall have authority to revoke permits when such holder violates or abuses the privilege or conditions of permit.

* NOTE: Section 39-18-05(1)(2) was also amended by section 12 of House Bill No. 1189, chapter 418.

2. For good cause shown therefor, the state highway department may issue annual permits for movement of mobile homes exceeding statutory size, to mobile home manufacturers, dealers, or transport companies; providing, however, that the towing vehicle shall consist of a three-fourths ton [680.39 kilograms] or larger truck with dual wheels, and that no annual permits shall be issued for movement of mobile homes exceeding overall dimensions of one hundred twenty inches [304.8 centimeters] wide, plus safety equipment, if required.
3. No oversize permits shall be valid during period of sunset to sunrise or during period of twelve noon Saturday to sunrise Monday or on holidays of New Year's, Memorial, Independence, Labor, Thanksgiving, and Christmas days.
4. For each permit issued there shall be charged a fee of five dollars, except that on annual permits each movement shall be charged a transit fee of five dollars. Further, no mobile home having a width in excess of eight feet [2.44 meters] shall be moved at a speed in excess of fifty-five miles [88.51 kilometers] per hour. No mobile home shall be moved unless such movement is covered by liability insurance in the amount of at least one hundred thousand dollars for bodily injury liability for one person, at least three hundred thousand dollars for bodily injury liability for one accident, and at least twenty thousand dollars property damage liability.
5. The state highway department shall provide a copy of permits issued under this section to the county director of tax equalization for the county into which the mobile home is being moved.

SECTION 2. AMENDMENT. Section 57-55-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-01. Mobile home defined Definitions. For the purposes of this chapter, "mobile home" shall mean any non-self-propelled vehicle means a structure, either single or multi-sectional, which is built on a permanent chassis, having a length of twenty-seven feet [8.23 meters] or more, ordinarily designed for human living quarters, either on a temporary or permanent basis, and owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is twenty-seven feet [8.23 meters] or more in length. For purposes of this chapter "utility services" means services purchased by the occupant from a utility company under the jurisdiction of the public service commission.

SECTION 3. AMENDMENT. Section 57-55-08 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-08. Duty of mobile home park operators and licensed mobile home dealers - Penalty. It shall be the duty of the owner, operator, or manager of each mobile home park or lot, or any mobile home dealer to display in his office, in a conspicuous place, a notice listing the provisions and requirements of this chapter. Such notice shall be subscribed by the state tax commissioner and shall be furnished by the director of tax equalization of the county in which the owner, operator, or manager of the mobile home park or lot, or mobile home dealer, resides. It shall be the duty of the owner, operator, or manager of each mobile home park or lot to make ~~an annual~~ a quarterly written report on or before ~~December first of each year~~ the fifteenth day following the last day of each calendar quarter to the director of tax equalization of such county. Such report shall list the number of mobile homes ~~and~~ the name of the owner of each mobile home which is located within each ~~such mobile home park or lot in the mobile home park~~; the name of the owner of each mobile home which has been moved into, out of, or within the mobile home park; the name of the owner of each mobile home which occupies more than one lot, and the lots which are vacant. In addition, ~~it shall be the duty of such owner, operator, or manager to furnish a quarterly report providing~~ shall provide the name and date of arrival or departure of each mobile home owner ~~who was not listed on the last annual~~ which has been moved since the time of the last quarterly report. Any person who fails to make a report as required by this section shall be guilty of an infraction.

* SECTION 4. AMENDMENT. Section 57-55-10 of the 1981 Supplement to 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 ~~his~~ living quarters by a disabled veteran or ~~his~~ unremarried ~~widow~~ spouse who meets the requirements of subsection 20 of section 57-02-08.

* NOTE: Section 57-55-10 was also amended by section 23 of House Bill No. 1373, chapter 598, and section 145 of House Bill No. 1058, chapter 82.

- 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 as described by subsection 15 of section 57-02-08, provided such mobile home is permanently attached to the ground.
 - 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.

SECTION 5. AMENDMENT. Section 57-55-11 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-11. Collection - Enforcement - Penalty.

1. The director of tax equalization shall make an inspection of each mobile home park, lot, or other place in which mobile homes are located, for the purpose of determining whether the provisions of this chapter are being complied with. If ~~he~~ the director shall determine that any person is not complying with the provisions of this chapter, ~~he~~ the director shall give such person a warning that if such person fails to comply within ten days after the issuance of such warning, the director of tax equalization may begin civil action against such person. In the alternative, if the director of tax equalization shall determine that there are mobile homes in his ~~the~~ director's county belonging to transients or nonresidents who have failed to comply with the provisions of this

chapter, and in ~~his~~ the director's opinion the taxes will be uncollectible if immediate action is not taken, ~~he~~ the director shall notify the county sheriff. The county sheriff shall immediately, and in no event later than five days after receiving such notification, commence proceedings as provided by law to collect the taxes, penalties, and interest, if any, which are due.

2. Before a mobile home is moved from its existing location, the owner must have a current year's mobile home decal displayed thereon or must display on the mobile home during transport a tax release statement obtained from the county director of tax equalization indicating that all taxes, penalties, and interest levied against the mobile home have been paid. A violation of this provision shall constitute an infraction, but the minimum penalty shall be one hundred dollars.

SECTION 6. AMENDMENT. Section 57-55-12 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-12. Refunds.

1. If the owner of any mobile home has paid the full amount of tax due under this chapter and thereafter during the current year permanently removes it from this state to a state in which he is required to pay a tax or fee on it that is substantially the same as that imposed by this chapter, upon written proof that he has paid another tax or fee, he shall be granted a refund of a part of the tax paid under this chapter, but not including any penalty paid, which refund shall be computed by dividing the amount of tax paid by the number of months of the year for which it was paid and multiplying the quotient by the number of calendar months remaining in the year during which the mobile home was permanently situated outside of this state. The owner shall file an application for refund, together with proof that a similar tax has been paid, with the director of tax equalization. Upon approval of the director of tax equalization, the county treasurer shall refund the amount approved and the county auditor and treasurer shall charge the refund against the taxing districts to which the collection was credited.
- 2- If ~~the~~ The owner of any mobile home who has paid, through mistake or otherwise, a greater amount of tax or penalty than was justly due, ~~upon written application he shall be granted~~ may apply for an abatement or refund under chapter 57-23 and a refund of the unjust portion paid after approval by the director of tax equalization. The county auditor and treasurer shall charge all refunds against the taxing districts to which the collection was credited.

3- 2. If the owner of a mobile home has paid the full amount of taxes due under this chapter, and thereafter during the current year such mobile home has been demolished or destroyed beyond repair by fire, windstorm, or flood, the owner shall be entitled to a refund as set forth in under subsection 1.

4- 3. Repealed by S.L. 1981, ch. 581, § 4.

SECTION 7. A new section to chapter 57-55 of the North Dakota Century Code is hereby created and enacted to read as follows:

Statements of full consideration to be filed with application for title to mobile homes - Sales ratio study - Penalty. Any person applying for a title and license of a mobile home under section 39-18-03 shall present, with the application, his certified statement of the full consideration paid for the mobile home. The registrar of motor vehicles shall not issue a certificate of title to the mobile home until the certified statement is received. The registrar of motor vehicles shall accumulate and at least monthly forward to the state board of equalization a report containing the information filed in his office pursuant to this section. The state board of equalization shall prescribe the necessary forms for the statements and reports to be used in carrying out the purposes of this section, and the forms must contain a space for the explanation of special circumstances which may have contributed to the amount of the consideration. The state board of equalization shall furnish this information to the state tax commissioner who shall conduct a sales ratio study to determine the proper assessment values of mobile homes under this chapter. Any person who, in the statement provided for in this section, willfully falsifies the consideration paid for the transferred mobile home is guilty of a class B misdemeanor.

SECTION 8. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1982.

Approved April 13, 1983

CHAPTER 667

HOUSE BILL NO. 1686
(Lautenschlager, Hughes)

COAL CONSIDERED SEVERED

AN ACT to create and enact a new section to chapter 57-61 of the North Dakota Century Code, relating to when coal is considered severed for the purposes of the coal severance tax.

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

SECTION 1. A new section to chapter 57-61 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

When coal considered severed. Coal is considered to be severed for the purposes of this chapter when it is first removed from where it was placed by nature, unless within thirty days of first removal it is placed into a long-term inventory storage deposit, in which case it is considered to be severed when removed from the deposit or it is pledged as collateral on a loan. A long-term inventory storage deposit is one which is so identified in a mining plan approved by the public service commission pursuant to chapter 38-14.1 and which as part of that plan is covered with soil and subjected to reclamation requirements during the time it serves as a deposit and before coal is removed therefrom.

Approved March 14, 1983

CHAPTER 668

HOUSE BILL NO. 1289
(C. Martin, Knudson, Whalen, O'Shea, Thompson)

COAL SEVERANCE TAX ALLOCATION

AN ACT to amend and reenact subsection 3 of section 57-62-02 of the North Dakota Century Code, relating to allocation of revenues to counties from the coal severance tax.

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

SECTION 1. AMENDMENT. Subsection 3 of section 57-62-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Twenty percent shall be allocated to the coal-producing counties and shall be distributed among such counties in such proportion as the number of tons [metric tons] of coal severed at each mining operation bears to the total number of tons [metric tons] of coal severed in the state during such quarterly period. ~~Such allocations~~ Allocations under subdivision a shall be apportioned by the county treasurer within fifteen days from the date the moneys are received from the state treasurer and allocations under subdivision b shall be apportioned by the state treasurer as follows:
 - a. If the tipple of the currently active coal mining operation in a county is not within fifteen miles [24.14 kilometers] of another county in which no coal is mined, the revenue apportioned according to this subdivision shall be allocated as follows:
 - (1) Thirty percent shall be paid by the county treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census.

- (2) Forty percent shall be deposited by the county treasurer in the county general fund to be used for general governmental purposes.
 - (3) Thirty percent shall be apportioned by the county treasurer to school districts within the county on the average daily membership basis, as certified to him by the county superintendent of schools.
- b. If the tittle of a currently active coal mining operation in a county is within fifteen miles [24.14 kilometers] of another county in which no coal is mined, the revenue apportioned from that coal mining operation according to this subsection shall be allocated, subject to the definitions of terms and the requirements in paragraph 4, as follows:
- (1) Thirty percent shall be paid by the county state treasurer ~~of the coal-producing county~~ to the incorporated cities of ~~that the coal-producing~~ county and to any city of a non-coal-producing county when any portion of the city lies within fifteen miles [24.14 kilometers] of the tittle of the currently active coal mining operation in the coal-producing county, based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census.
 - (2) Forty percent shall be divided by the county state treasurer ~~of the coal-producing county~~ between the general fund of the coal-producing county and the general fund of any non-coal-producing county when any portion of the latter county lies within fifteen miles [24.14 kilometers] of the tittle of the currently active coal mining operation in the coal-producing county. The non-coal-producing county portion shall be based upon the ratio which the assessed valuation of all quarter sections of land in that county, any portion of which lies within fifteen miles [24.14 kilometers] of the tittle of the currently active coal mining operation, bears to the combined assessed valuations of all land in the coal-producing county and the quarter sections of land in the non-coal-producing county within fifteen miles [24.14 kilometers] of the tittle of the currently active coal mining operation. It shall be the duty of the county director of tax equalization of the coal-producing county to certify to the state

treasurer of the same county the number of quarter sections of land in the non-coal-producing counties which lie at least in part within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation and their assessed valuations.

- (3) ~~Thirty percent shall be apportioned by the county~~ state treasurer of the coal-producing county to school districts within ~~that the coal-producing~~ county and to school districts in adjoining non-coal-producing counties when a portion of those school districts' land includes any of the quarter sections of land certified by the director of tax equalization to the ~~county~~ state treasurer to be eligible to share county funds as provided for in paragraph 2. The county superintendent of the non-coal-producing counties shall certify to the ~~county~~ state treasurer of the coal-producing county the number of students actually residing on these quarter sections lying outside the coal-producing county and each school district in non-coal-producing counties shall receive a portion of the money under this paragraph based upon the ratio of the number of children residing on quarter sections of that school district within the fifteen mile [24.14 kilometer] radius of the tipple of a currently active coal mining operation to the total number of schoolchildren from the coal-producing county combined with all the schoolchildren certified to be living on quarter sections within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation in the coal-producing county.
- (4) For the purposes of this subdivision:
- (a) The terms "currently active coal mining operation in a county", "currently active coal mining operation in the coal-producing county", and "currently active coal mining operation" mean a coal mining operation that produces more than one hundred fifty thousand tons [136077.71 metric tons] of coal in a coal-producing county during the quarterly period.
- (b) The term "coal-producing county" means a county in which more than one hundred fifty thousand tons [136077.71 metric tons] of coal are mined in the quarterly period.

- (c) The term "another county in which no coal is mined" means a county in which not more than seventy-five thousand tons [68038.86 metric tons] of coal are mined in the quarterly period.
- (d) The terms "non-coal-producing county" and "non-coal-producing counties" mean any county in which not more than seventy-five thousand tons [68038.86 metric tons] of coal are mined in the quarterly period.
- (e) In computing each amount to be paid as provided in paragraph 1, 2, or 3 for coal severance tax revenue from coal mined during a quarterly period, the treasurer of the coal-producing county shall deduct from the allocation the amount of coal severance tax revenue, if any, that the governmental body in the non-coal-producing county received from the coal mined in the non-coal-producing county during the same quarterly period.

Approved April 6, 1983