
TAXATION

CHAPTER 309

S. B. No. 263
(Solberg)

REPEAL OF EXEMPTION OF OIL DRILLING RIGS FROM TAXATION

AN ACT

To repeal section 57-0219 of the North Dakota Revised Code of 1943, relating to exemption of oil drilling rigs from taxation.

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

§ 1. REPEAL.) Section 57-0219 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 7, 1953.

CHAPTER 310

S. B. No. 270
(Delayed Bills Committee)

TAX EXEMPTIONS OF FARM MACHINERY ON WHICH SALES OR USE TAX HAS BEEN PAID

AN ACT

To amend and reenact section 1 of chapter 312 of the North Dakota Session Laws of 1951, relating to exemption from taxation of that part of the value of farm machinery upon which sales or use tax has been paid; and declaring an emergency.

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

§ 1. AMENDMENT.) Section 1 of chapter 312 of the North Dakota session laws of 1951 is hereby amended and reenacted to read as follows:

57-0220. EXEMPTION OF FARM MACHINERY FOR ONE YEAR.) That part of the value of farm machinery on which sales or use tax is paid, purchased after August first, to be used by the buyer in his farming operations, shall be exempt to the buyer from the personal property tax which would be assessed and levied against it in the first year after its purchase were this section not in force. No exemption shall be allowed, however, unless the buyer exhibits to the assessor satisfactory written proof that the North Dakota sales or use tax has been paid on such farm machinery. Any dealer in farm machinery may not claim the exemptions provided for in this section even though farm machinery owned by him is used in farming operations.

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

Approved March 7, 1953.

CHAPTER 311

S. B. No. 93
(Stucke, Gronvold and Berube)

ASSESSORS DISTRICTS FOR UNORGANIZED TERRITORY; COMPENSATION OF ASSESSORS

AN ACT

To amend and reenact sections 57-0233 and 58-0902 of the North Dakota Revised Code of 1943, as amended by chapter 313 of the North Dakota Session Laws of 1951, relating to assessors in townships and unorganized territories; and declaring an emergency.

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

§ 1. AMENDMENT.) Section 1 of chapter 313 of the North Dakota session laws of 1951 is hereby amended and reenacted to read as follows:

57-0233. ASSESSOR DISTRICTS FOR UNORGANIZED TERRITORY.) All counties or parts of counties in this state not organized into civil townships shall be divided into assessor districts, which shall comprise the same territory as the commissioner districts of said county, excluding organized civil townships and organized cities and villages, and the district assessor thereof shall

be elected at the same time that state officers are elected, and his term of office shall be two years from and after the first day of January following. In case of vacancy in the office of district assessor in any of such districts, such vacancies shall be filled by the board of county commissioners. All assessors of territory not organized into civil townships shall receive as compensation for his services a sum determined by the board of county commissioners not to exceed ten dollars per day, for the time actually and necessarily employed in making and completing the assessment of his district. The compensation shall be paid from the treasury of the county in which such district is located only upon an itemized statement setting forth the actual time spent in the work of the assessor and mileage traveled, approved by the board of county commissioners. No person shall be eligible to be a district assessor unless he is a voter and owner of real estate or personal property in this district. In addition, the district assessor shall be paid such mileage as is required to perform the duties of his office. The board of county commissioners shall have the authority to appoint a deputy assessor where needed, to be compensated in the same manner as the district assessor.

§ 2. AMENDMENT.) Section 2 of chapter 313 of the North Dakota session laws of 1951 is hereby amended and reenacted to read as follows:

58-0902. COMPENSATION OF ASSESSOR.) The township assessor shall receive as compensation for his services a sum determined by the board of township supervisors not to exceed ten dollars per day for the time actually and necessarily employed in making and completing the assessment of his township. The compensation shall be paid out of the township treasury upon an itemized statement setting forth the actual time spent in the work of assessor, approved by the board of township supervisors.

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

Approved March 10, 1953.

CHAPTER 312

S. N. No. 43
(Legislative Research Committee)

REPEAL OF ASSESSMENT OF PETROLEUM PROPERTY

AN ACT

To repeal chapter 57-04 of the North Dakota Revised Code of 1943 relating to assessment of oil refineries.

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

§ 57-04. REPEAL.) Chapter 57-04 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 6, 1953.

CHAPTER 313

H. B. No. 665
(Fitch and Crothers)

TAX LEVY BY CITY OR VILLAGE TO ASSIST FIREMEN'S
RELIEF ASSOCIATIONS

AN ACT

Providing for the levy of a tax by cities or municipalities to assist firemen's relief associations, and declaring an emergency.

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

§ 1. 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 city or village having an organized firemen's relief association as provided for under chapter 18-05 of the North Dakota Revised Code of 1943, may levy an annual tax of not more than one-half of one mill upon its taxable valuation for the purpose of assisting such firemen's relief association in providing for the pension and relief provided for by such association.

§ 2. CITY TREASURER TO DELIVER MONEY TO RELIEF ASSOCIATION.) On the last day of June and December of each year, the treasurer of any municipality covered by this act shall deliver and turn over to the treasurer of any such firemen's relief association, having qualified as provided for in chapter 18-05 of the North Dakota Revised Code of 1943, all moneys collected under the provisions of this act.

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

Approved March 2, 1953.

CHAPTER 314

S. B. No. 129
(Luick, Schmit)

TAX LEVY LIMITATIONS IN CITIES AND VILLAGES

AN ACT

To amend and reenact sections 57-1508 and 57-1509 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to tax levy limitations in cities and villages.

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

§ 1. AMENDMENT.) Section 57-1508 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1508. 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 twenty-six mills on the net taxable assessed valuation of property in the city, provided, that in cities with a population over five thousand they be permitted to levy an additional one-half of one mill for each additional one thousand population in excess of five thousand and provided further that the maximum levy for general city purposes shall not exceed twenty-eight mills, and that in a city supporting a band or public library an additional levy, not to exceed three mills on the net taxable assessed valuation of property in such city, may be made for these purposes.

§ 2. AMENDMENT.) Section 57-1509 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1509. TAX LEVY LIMITATIONS IN VILLAGES.) The aggregate amount levied for all taxes which any village is authorized to levy, except for those purposes specified in section 57-1510, shall not exceed such an amount as will be produced by a levy of twenty mills on the net taxable assessed valuation of property in the village.

Approved March 14, 1953.

CHAPTER 315

H. B. No. 673
(Committee on Education)

TAX LEVY FOR COUNTY HIGH SCHOOL EQUALIZATION FUND, AND TAX LEVY LIMITATIONS IN SCHOOL DISTRICTS AND COUNTY HIGH SCHOOL TUITION PAYMENTS

AN ACT

To amend and reenact sections 2, 4 and subsections 1, 2 and 3 of section 10 of chapter 137 of the North Dakota Session Laws of 1951, relating to the levy for the county high school equalization fund, to tax levy limitations in school districts and county high school tuition payments.

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

§ 1. AMENDMENT.) Section 2 of chapter 137 of the North Dakota session laws of 1951 is hereby amended and reenacted to read as follows:

§ 2. TAX LEVY FUND.) Each year, at the same time as other county taxes are levied, there shall be levied in each county in the state a tax of two mills on every dollar of the net taxable assessed valuation in the county, which tax levy shall not be included within the tax levy limit otherwise provided by law for counties. The proceeds of such tax shall be covered into the county high school equalization fund.

§ 2. AMENDMENT.) Section 4 of chapter 137 of the North Dakota session laws of 1951 is hereby amended and reenacted to read as follows:

§ 4. COUNTY HIGH SCHOOL TUITION PAYMENTS.) Subject to the provisions of this Act, there shall be paid out of the county

high school equalization fund to the schools or school districts of the county, and to any school or school districts of another state receiving payments of high school tuition from the North Dakota state equalization fund for the attendance of any student who is a resident of the county, the sum of two dollars for each week or major fraction thereof of regular enrollment during the preceding school semester by a student for whom high school tuition payments from the state equalization fund are received. The county superintendent of schools shall certify to the county auditor in a manner and form and at such times as shall be prescribed by the superintendent of public instruction, a list of the schools or school districts entitled to county high school tuition payments together with the amounts to which the several schools or districts are entitled. Payments shall be made by auditors warrants drawn upon the county high school equalization fund to the respective school districts or schools and payments to districts or schools in this state shall be deposited in the general fund of the district or school.

§ 3. AMENDMENT.) Subsections 1, 2 and 3 of section 10 of chapter 137 of the North Dakota session laws of 1951 are hereby amended and reenacted to read as follows:

1. Any school district giving two years of standard high school work may levy taxes not to exceed twenty-six mills;
2. Any school district giving three years of standard high school work may levy taxes not to exceed twenty-nine mills;
3. Any school district giving four years of standard high school work may levy taxes not to exceed thirty-two mills;

§ 4. AMENDMENT.) Section 15-4019 of the North Dakota Revised Code of 1943 is amended by section 7 of chapter 137 of the North Dakota session laws of 1951 is hereby amended and reenacted to read as follows:

15-4019. DETERMINATION OF SUMS DUE COUNTY TUITION FUNDS AND COUNTY HIGH SCHOOL EQUALIZATION FUNDS.) On or before the first day of September of each year the county superintendent of schools of each county shall submit to the superintendent of public instruction a request for a grant in aid from the state equalization fund for the county tuition fund, and at the close of each semester he shall submit to the superintendent of public instruction a request for grant in aid from the state equalization fund for the county high school equalization fund. The requests shall be filed on forms furnished by the superintendent of public instruction and shall state

the full amount of the elementary per pupil payments and county high school tuition payments to be made to each school or school district that has complied with the provisions of law relating to such funds. The superintendent of public instruction shall determine the amount of the grants in aid to which each county is entitled by subtracting from the full amount of the elementary per pupil payments to be made in the county, the product of the taxable assessed valuation of property in the county multiplied by nine and five tenths mills and from the full amount of the county high school tuition payments to be made the product of the taxable assessed valuation of the county multiplied by .95 mills. The balance will be the amounts of aid to which the county is entitled for such funds.

Approved March 11, 1953.

CHAPTER 316

S. B. No. 158
(Pyle)

TAX LEVY FOR SURFACING HIGHWAYS IN UNORGANIZED
TOWNSHIPS; TAX LEVY LIMITATIONS IN
CIVIL TOWNSHIPS

AN ACT

To amend and reenact section 57-15191 of the 1949 Supplement to the North Dakota Revised Code of 1943 and section 57-1520 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to township tax levies; township tax levies for improving highways; the use of funds raised by tax levies; and providing for a township tax levy limitation, and declaring an emergency.

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

§ 1. AMENDMENT.) Section 57-15191 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-15191. LEVIES FOR SURFACING HIGHWAYS IN UNORGANIZED TOWNSHIPS.) The county commissioners may authorize a levy not to exceed eight mills upon all taxable property within unorganized townships or within school districts comprising unorganized townships, to be used for the improvement of highways within said unorganized townships or school districts as provided herein, under the direction of the county commis-

sioners. The fund so raised by such levy in unorganized townships shall constitute a revolving fund, to be used for the purposes as hereinbefore provided.

§ 2. AMENDMENT.) Section 57-1520 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1520. 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.

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

Approved March 12, 1953.

CHAPTER 317

H. B. No. 586
(Poling and Siverson)

TOWNSHIP SUPERVISORS TRANSFER OF FUNDS INTO SPECIAL ROAD FUND; LIMITATIONS; USE

AN ACT

To amend and reenact section 57-15192 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to township supervisors transferring of funds, and declaring an emergency.

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

§ 1. AMENDMENT.) Section 57-15192 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-15192. TOWNSHIP SUPERVISORS MAY TRANSFER FUNDS INTO SPECIAL ROAD FUND; LIMITATIONS; USE.) The board of supervisors, at the time of the annual township meeting, upon resolution, may transfer or set aside a part or all of any funds into a special road fund which fund shall be separate and

distinct from all other funds. Such special road fund shall not exceed the sum of eight thousand dollars for any one congressional township. The special road fund provided for in section 2 of this Act (this section) may be expended, at the option of the board of supervisors, for the purpose of road construction, graveling or surfacing.

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

Approved March 10, 1953.

CHAPTER 318

H. B. No. 701
(Sticka, Schmalenberger, Gress)
(By request)

TRANSFER OF SCHOOL DISTRICT SPECIAL RESERVE FUND TO GENERAL FUND; DISCONTINUANCE

AN ACT

To amend and reenact section 57-1909 of the 1949 Supplement of the North Dakota Revised Code of 1943 relating to when fund may be transferred and discontinued.

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

§ 1. AMENDMENT.) That section 57-1909 of the 1949 Supplement of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1909. WHEN FUND MAY BE TRANSFERRED.) Any school district which has heretofore by mistake, or for any other reason, considered all or any part of a special reserve fund, as defined and provided for in chapter 57-19 of the North Dakota Revised Code of 1943, in determining the budget for the school district which has deducted all or any part of the funds in such special reserve fund from the amount necessary to be levied for any school fiscal year, may transfer from the special reserve fund into the general fund all or any part of such amounts which have been so considered contrary to the provisions of section 57-1905 of the North Dakota Revised Code of 1943. Any school district special reserve fund and the tax

levy therefor may be discontinued by a vote of two-thirds of the electors of the school district voting upon the question at any special or general election. Any moneys remaining unexpended in such special reserve fund shall be transferred to the building or general fund of the school district; provided, however, that such discontinuance of a special reserve fund shall not decrease the school district tax levies otherwise provided for by law by more than twenty per cent. A special reserve fund and the tax levy therefor which has been discontinued may be reinstated by a vote of two-thirds of the electors of the school district voting upon the question at any special or general election.

Approved March 12, 1953.

CHAPTER 319

S. B. No. 92
(Stucke, Livingston, and Solberg)

IMMEDIATE ASSESSMENT AND COLLECTION OF PERSONAL PROPERTY TAXES WHERE REAL PROPERTY INSUFFICIENT TO SECURE LIEN

AN ACT

Providing for the immediate assessment and collection of personal property taxes where the tax debtor has insufficient real property to secure the lien for such taxes, and declaring an emergency.

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

§ 1. IMMEDIATE ASSESSMENT OF PERSONAL PROPERTY TAXES.) It shall be the duty of the assessor, upon discovery of any personal property in the county, belonging to transients or non-residents, the taxes upon which cannot in his opinion be made a lien upon sufficient real property to secure the payment of such taxes, as provided in section 57-2221, to immediately, and in any event not more than five days thereafter, make a report to the treasurer, setting forth the nature, kind, description and character of such property, in such a definite manner that the treasurer can identify the same, and the amount and assessed valuation of such property, where the same is located, and the name and address of the owner, claimant, or other person in possession of the same.

§ 2. IMMEDIATE COLLECTION OF PERSONAL PROPERTY TAXES.) The county treasurer must collect the taxes on all personal property, and in the case provided in the preceding section, it shall be the duty of the treasurer immediately upon receipt of such report from the assessor to notify the person or persons against whom the tax is assessed that the amount of such tax is due and payable at the county treasurer's office. The county sheriff shall at the time of receiving the assessor's report, and in any event within thirty days from the receipt of such report, levy upon and take into his possession such personal property against which a tax is assessed and proceed to sell the same, in the same manner as property is sold on execution by the sheriff, and the county treasurer may for the purpose of making such levy and sale, designate and appoint the sheriff as his deputy, and such sheriff shall be entitled to receive the same fees as he is entitled to in making a seizure and sale under execution. For the purpose of determining the taxes due, on such personal property, the treasurer shall use the levy made during the previous year, if the levy for the current year has not yet been made. Nothing herein shall be construed as to prevent the county treasurer or the county sheriff from collecting taxes due on personal property by distraint thereof at any time after the expiration of the period hereinbefore mentioned.

§ 3. EMERGENCY.) An emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1953.

CHAPTER 320

H. B. No. 687

(Beede, Holand, Haugen and Rohde)

ISSUANCE OF TAX DEEDS

AN ACT

To amend and reenact section 57-2705 of the North Dakota Revised Code of 1943, as amended and reenacted by section 2 of chapter 276 of the North Dakota Session Laws of 1951, and section 57-2809 of the North Dakota Revised Code of 1943, relating to issuance of tax deeds.

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

§ 1. AMENDMENT.) Section 57-2705 of the North Dakota Revised Code of 1943, as amended and reenacted by section 2

of chapter 276 of the North Dakota session laws of 1951 is hereby amended and reenacted to read as follows:

57-2705. TAX DEED TO BE ISSUED.) At the expiration of the period of redemption, and after the filing of the proof of service of the notice of expiration of such period, the county auditor, if no redemption has been made, on surrender of the certificate of tax sale to him, shall execute to the owner of the certificate, his heirs and assigns, in the name of the state, a deed of the land remaining unredeemed, which shall vest in the said certificate owner, his heirs and assigns, an absolute estate in fee simple in such lands, subject to claims of the state or other taxing districts on account of taxes or other liens or encumbrances. Such deed shall be executed by the county auditor under his hand and seal. Such deed shall be prima facie evidence of the truth of all facts therein recited and of the regularity of all the proceedings from the assessment and valuation of the land by the assessor up to the execution of the deed.

§ 2. AMENDMENT.) Section 57-2809 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-2809. TAX DEED TO BE ISSUED.) After the expiration of the period of redemption, the county auditor shall issue a tax deed to the county, in the usual form, for all real estate which was not redeemed within the period of redemption. Such tax deed shall pass the absolute property in fee to the county, free from all encumbrances whatsoever. Such deed shall be prima facie evidence of the truth of all the facts therein recited and of the regularity of all the proceedings from the assessment and valuation of the land by the assessor up to the execution of the deed.

Approved March 10, 1953.

CHAPTER 321

H. B. No. 847
(Delayed Bills Committee)

TAX EXEMPTION OF MUTUAL OR COOPERATIVE
TELEPHONE COMPANIES

AN ACT

To amend and reenact section 57-3411 of the North Dakota Revised Code of 1943, relating to exemption from taxation of mutual or cooperative telephone companies, and declaring an emergency.

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

§ 1. AMENDMENT.) Section 57-3411 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3411. EXEMPTION FROM OTHER TAXATION.) The taxes imposed by this chapter shall be in lieu of all state, county, municipal, road, or school taxes, licenses, sales taxes, use taxes or other excise taxes, or fees imposed upon or required from any mutual or cooperative telephone company and its franchises, and upon all property of any such company, tangible and intangible, used or useful in telephone operations.

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

Approved March 7, 1953.

CHAPTER 322

H. B. No. 604
(Saugstad, Rohde, Mollet and Laske)

ALLOCATION OF CIGARETTE TAX REVENUE

AN ACT

To amend and reenact section 2 of chapter 323 of the 1951 Session Laws, relating to allocation of cigarette tax revenue, and declaring an emergency.

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

§ 1. AMENDMENT.) Section 2 of chapter 323 of the 1951 session laws is hereby amended and reenacted to read as follows:

§ 2. ALLOCATION OF REVENUE.) All moneys received by the state treasurer from the proceeds of the tax provided in section 1 hereof are hereby appropriated and shall be distributed on or before the thirtieth day of June and the thirty-first day of December of each year on a per capita basis to the incorporated cities and villages of the state, to be used by such incorporated cities and villages for such purposes as are now or may be hereafter authorized by law, the allocation to be based upon the population of each incorporated city and village according to the last official federal or state census, or the census taken in accordance with the provisions of chapter 40-02 of the North Dakota Revised Code of 1943 in the case of a city or village incorporated subsequent to the last federal or state census, and warrants shall be drawn payable to the treasurers of such cities and villages.

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

Approved March 4, 1953.

CHAPTER 323

H. B. No. 632
(Committee on Finance and Taxation)

EXCLUSION OF EARNINGS OF MINOR DEPENDENTS
FROM GROSS INCOME

AN ACT

To amend section 57-3818 of the North Dakota Revised Code of 1943 relating to exclusions of items from gross income by adding thereto subsection 6 relating to exclusion of earnings of minor dependents from gross income of taxpayers.

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

§ 1. AMENDMENT.) Section 57-3818 of the North Dakota Revised Code of 1943 is hereby amended by adding thereto subsection 6 to read as follows:

6. Wages received by each minor dependent of the taxpayer, provided the wages of such dependent are less than six hundred dollars during the taxpayer's income year.

§ 2. EFFECTIVE DATE.) This Act shall apply to every income year beginning after December 31, 1952.

Approved March 2, 1953.

CHAPTER 324

H. B. No. 548
(Legislative Research Committee)
(at the request of the Tax Commissioner)

DEDUCTION OF PROPERTY AND BUSINESS TAXES
FROM GROSS INCOME

AN ACT

To amend and reenact subsection 3 of section 57-3822 of the North Dakota Revised Code of 1943 relating to the deduction of property and business taxes from gross income for income tax purposes.

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

§ 1. AMENDMENT.) Subsection 3 of section 57-3822 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

3. Taxes paid or accrued within the income year upon property or business the income from which, if any, would be taxable under this chapter, but not including those assessed for local benefits of a kind tending to increase the value of the property assessed. Federal income taxes may be deducted to the extent that such taxes represent taxes paid on income taxable under this chapter, but state income taxes are not deductible;

§ 2. EFFECTIVE DATE.) This Act shall apply to every income year beginning after December 31, 1952.

Approved February 11, 1953.

CHAPTER 325

S. B. No. 257
(Nordhougen)
(By request)

DEDUCTION OF INTEREST FROM GROSS INCOME
FOR INCOME TAX PURPOSES

AN ACT

To amend and reenact subsection 2 of section 57-3822 of the North Dakota Revised Code of 1943 relating to the deduction of interest from gross income for income tax purposes.

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

§ 1. AMENDMENT.) Subsection 2 of section 57-3822 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2. Interest paid or accrued within the year on the taxpayer's indebtedness; provided that interest paid or accrued shall not be deducted if paid or accrued on an indebtedness incurred with respect to property or business the income from which, if any, would not be taxable under the provisions of this chapter;

§ 2. EFFECTIVE DATE.) This Act shall apply to every income year beginning after December 31, 1952.

Approved March 7, 1953.

CHAPTER 326

S. B. No. 89
(Clyde Duffy)

DEPRECIATION AND DEPLETION DEDUCTIONS
FOR INCOME TAX

AN ACT

To amend and reenact subsection 6 of section 57-3822 of the North Dakota Revised Code of 1943, relating to deductions allowed for depreciation and depletion under the North Dakota income tax law.

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

§ 1. AMENDMENT.) Subsection 6 of section 57-3822 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6. A reasonable allowance for necessary repairs and a reasonable allowance for depreciation by use, wear, and tear of property used in business or trade, and in case of mines, oil and gas wells, or other natural deposits, a reasonable allowance for cost depletion including cost of development if capitalized, and for depreciated improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under the rules and regulations to be prescribed by the tax commissioner. The taxpayer shall have the election to capitalize or deduct currently the intangible drilling and development costs, such election once made to be binding for all subsequent years. In any case, in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate, but not the basis for depletion, shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate. In the case of leases, the deductions shall be equitably apportioned between the lessor and lessee. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust, the allowable deduction shall be apportioned between the income beneficiaries and the trustee in

accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. In the case of oil and gas wells, the taxpayer shall have an option to accept an allowance for depletion of twenty-seven and one-half per centum of the gross income from the property during the taxable year in lieu of other bases of depletion. If the option to accept the twenty-seven and one-half per centum depletion allowance is exercised, the taxpayer shall exclude from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect to the property. Such allowance shall not exceed fifty per centum of the net income of the taxpayer from the property, computed without the allowance for depletion. In no case, shall the allowance of percentage depletion be less than it would have been as computed upon the basis of cost depletion;

Approved March 13, 1953.

CHAPTER 327

H. B. No. 643
(Finance and Taxation Committee)
(at the request of the Tax Commissioner)

TIME FOR FIXING INCOME TAX EXEMPTION STATUS

AN ACT

To amend and reenact section 57-3828 of the North Dakota Revised Code of 1943 relative to the time for fixing the status of individuals as income taxpayers insofar as it is affected by the personal exemptions and credits for dependents and to amend and reenact subsections 1, 2 and 3 of section 57-3826 of the 1949 Supplement to the North Dakota Revised Code of 1943 relating to exemptions for income taxpayers and the credits for dependents.

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

§ 1. AMENDMENT.) Section 57-3828 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3828. TIME FOR FIXING EXEMPTION STATUS.) The following provisions shall apply for the purpose of fixing the status

of the taxpayer insofar as it affects the personal exemption or credits for dependents:

1. The determination of whether an individual is the head of a family or married and living with husband or wife or is over the age of sixty-five shall be made as of the close of the individual's income year, unless the dependent which qualifies the taxpayer as head of the family or the spouse of such taxpayer dies during the income year, in which case such determination shall be made as of the time of such death.
2. Credits for dependents shall not be apportioned.

§ 2. AMENDMENT.) Subsection 1 of section 57-3826 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. In the case of single individuals, an exemption of six hundred dollars, provided that an additional six hundred dollars exemption shall be allowed for single individual tax payers over the age of sixty-five;

§ 3. AMENDMENT.) Subsection 2 of section 57-3826 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2. In case of a head of a family or married individual living with husband or wife, a personal exemption of fifteen hundred (\$1500.00) dollars. A husband and wife living together shall receive but one personal exemption of fifteen hundred dollars against their aggregate net income, and in case they make separate returns, the personal exemption of fifteen hundred dollars (\$1500.00) may be taken by either or divided between them. An additional six hundred dollar exemption shall be allowed for each spouse over the age of sixty-five.

§ 4. AMENDMENT.) Subsection 3 of section 57-3826 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

3. Six hundred dollars for each dependent, other than husband or wife. As used in this chapter the term "dependent" means any of the following persons over half of whose support, for the calendar year in which the income year of the taxpayer begins, was received from the taxpayer:
 - a. A son or daughter of the taxpayer, or a descendant of either.
 - b. A stepson or stepdaughter of the taxpayer.

- c. A brother, sister, stepbrother, or stepsister of the taxpayer.
- d. The father or mother of the taxpayer, or an ancestor of either.
- e. A stepfather or stepmother of the taxpayer.
- f. A son or daughter of a brother or sister of the taxpayer.
- g. A brother or sister of the father or mother of the taxpayer.
- h. A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer.

As used in this subsection, the terms "brother" and "sister" include a brother or sister by the half-blood. For the purposes of determining whether any of the foregoing relationships exist, a legally adopted child of a person shall be considered a child of such person by blood. The term "dependent" does not include any individual who is a citizen or subject of a foreign country unless such individual is a resident of the United States or of a country contiguous to the United States. If the taxpayer would not occupy the status of head of a family except by reason of there being one or more dependents for whom he could be entitled to credit, the credit shall be disallowed with respect to one of such dependents.

§ 5. EFFECTIVE DATE.) This Act shall apply to every income year beginning after December 31, 1952.

Approved March 11, 1953.

CHAPTER 328

H. B. No. 797

(Brown, Bourgois, Poling, Hegge and Toussaint)

INCOME TAX RATES FOR INDIVIDUALS

AN ACT

To amend and reenact section 57-3829 of the North Dakota Revised Code of 1943, relating to rate of taxation on individuals.

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

§ 1. AMENDMENT.) Section 57-3829 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3829. RATE OF TAX ON INDIVIDUALS.) A tax is hereby imposed upon every individual, to be levied, collected, and paid annually with respect to the entire net income of such individual as defined in this chapter, computed at the following rates:

1. On all net incomes, above exemptions, and not in excess of three thousand dollars, a tax of one percent;
2. On all net incomes, above exemptions, in excess of three thousand dollars and not in excess of four thousand dollars, a tax of two percent;
3. On all net incomes, above exemptions, in excess of four thousand dollars and not in excess of five thousand dollars, a tax of three percent;
4. On all net incomes, above exemptions, in excess of five thousand dollars and not in excess of six thousand dollars, a tax of five percent;
5. On all net incomes, above exemptions, in excess of six thousand dollars and not in excess of eight thousand dollars, a tax of seven and one-half percent;
6. On all net incomes, above exemptions, in excess of eight thousand dollars and not in excess of fifteen thousand dollars, a tax of ten percent;
7. On all net incomes, above exemptions, in excess of fifteen thousand dollars, a tax of eleven percent.

Approved March 13, 1953.

CHAPTER 329

H. B. No. 633

(Committee on Finance and Taxation)

DUTY OF INDIVIDUALS AND FIDUCIARIES TO MAKE
INCOME TAX RETURNS

AN ACT

To amend and reenact subsection 1 of section 57-3831 of the 1949 Supplement to the North Dakota Revised Code of 1943 relating to the duty of individuals to make income tax returns and to amend and reenact subsection 4 of section 57-3831 of the North Dakota Revised Code of 1943 relating to the duty of fiduciaries to make income tax returns.

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

§ 1. AMENDMENT.) Subsection 1 of section 57-3831 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. Each individual, including minor children, subject to taxation under the provisions of this chapter, having a net income during the income year of six hundred dollars or over, if single, or if married and not living with husband or wife at the close of the income year, or having a net income for the fiscal year of fifteen hundred dollars or over, if married and living with husband or wife at the close of the income year, and every individual having a gross income during the income year of five thousand dollars, or more, regardless of the amount of his net income, shall make a return, under oath, stating specifically the items of his gross income and the deductions and exemptions allowed by this chapter and claimed by him;

§ 2. AMENDMENT.) Subsection 4 of section 57-3831 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4. Every fiduciary subject to taxation under the provisions of this chapter shall make a return under oath for the individual, estate or trust for which he acts, if the net income thereof amounts to six hundred dollars or over;

§ 3. EFFECTIVE DATE.) This Act shall apply to every income year beginning after December 31, 1952.

Approved March 2, 1953.

CHAPTER 330

H. B. No. 633
(Committee on Finance and Taxation)

DUTY OF INDIVIDUALS AND FIDUCIARIES TO MAKE
INCOME TAX RETURNS

AN ACT

To amend and reenact subsection 1 of section 57-3831 of the 1949 Supplement to the North Dakota Revised Code of 1943 relating to the duty of individuals to make income tax returns and to amend and reenact subsection 4 of section 57-3831 of the North Dakota Revised Code of 1943 relating to the duty of fiduciaries to make income tax returns.

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

§ 1. AMENDMENT.) Subsection 1 of section 57-3831 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. Each individual, including minor children, subject to taxation under the provisions of this chapter, having a net income during the income year of six hundred dollars or over, if single, or if married and not living with husband or wife at the close of the income year, or having a net income for the fiscal year of fifteen hundred dollars or over, if married and living with husband or wife at the close of the income year, and every individual having a gross income during the income year of five thousand dollars, or more, regardless of the amount of his net income, shall make a return, stating specifically the items of his gross income and the deductions and exemptions allowed by this chapter and claimed by him. 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.

§ 2. AMENDMENT.) Subsection 4 of section 57-3831 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

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 the net income thereof amounts to six hundred dollars or over; 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;

§ 3. EFFECTIVE DATE.) This Act shall apply to every income year beginning after December 31, 1952.

Approved March 16, 1953.

CHAPTER 331

S. B. No. 62

(Legislative Research Committee)

(at the request of the Tax Commissioner)

TIME AND PLACE FOR FILING INCOME TAX RETURNS

AN ACT

To amend and reenact section 57-3834 of the North Dakota Revised Code of 1943 relating to the time and place for filing income tax returns and changing the filing date for calendar year taxpayers to April fifteenth and declaring an emergency.

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

§ 1. AMENDMENT.) Section 57-3834 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3834. TIME AND PLACE OF FILING RETURNS.) Returns shall be in such form as the tax commissioner from time to time may prescribe, and shall be filed with the tax commissioner at his office in Bismarck, North Dakota. Returns shall be made on or before the fifteenth day of the third month following the close of the fiscal year, or if the return is made on the basis of the calendar year, then the return shall be made on or before the fifteenth day of April in the year following the income year for which the return is made. The tax commissioner may grant a reasonable extension of time for filing a report when, in his judgment, good cause exists. The tax commissioner shall prepare blank forms for use in making returns and shall cause them to be distributed throughout this state, but failure to receive or secure a form shall not relieve a taxpayer from making a return.

§ 2. EFFECTIVE DATE.) This Act shall apply to every income year beginning after December 31, 1951.

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

Approved February 9, 1953.

CHAPTER 332

H. B. No. 723

(Fugelstad, Holand, Einarson, Kleppe, Lynch,
(Anderson of Ransom, Wolf of McIntosh-Logan)

SALES TAX

AN ACT

To equalize taxation and replace in part the tax on property; to provide the public revenue to be used for such replacement by imposing a tax on the gross receipts from retail sales as defined herein; to provide for the collection of such tax, the distribution and use of the revenue derived therefrom, and the administration of said law; to provide for certain deductions and exemptions; establishing a lien for the payment of such tax; to fix fines and penalties for the violation of the provisions of this Act.

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

§ 1. DEFINITIONS.) The following words, terms and phrases, when used in this Act, have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Person" includes any individual, firm, partnership, joint adventure, association, corporation, estate, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number;
2. "Sale" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration;
3. "Retail sale" or "sale at retail" means the sale to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property and the sale of steam, gas, electricity, water, and communication service to retail consumers or users, and includes the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer. By the term "processing" is meant tangible personal property that is used in manufacturing, producing or processing, which becomes an ingredient or component part of other tangible personal property which latter tangible personal property becomes subject to the retail sales tax. The sale of an item of tangible personal

property for the purpose of incorporating it in or attaching it to other real or personal property otherwise exempt from the sales tax shall be considered as a sale of tangible personal property for a purpose other than for processing;

4. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect;
5. "Retailer" includes every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, electricity, water and communication services, and tickets or admission to places of amusement and athletic events as provided in this Act, and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items or tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided; and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in the manner provided in this Act;
6. "Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided, however, that on all sales of retailers, valued in money, when such sales are made under conditional sales contract, or under other forms of sale wherein the payment of the principal sum thereunder be extended over a period longer than sixty days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted, for the purpose of imposition of tax imposed by this Act, as has actually been received in cash by the retailer during each quarterly period as defined herein;
7. "Relief agency" means the state, any county, city and county, city or district thereof, of an agency engaged in actual relief work;

8. "Commissioner" means the tax commissioner of the state of North Dakota; and
9. "Local governmental unit" means incorporated cities, towns and villages, counties, school districts and townships.

§ 2. TAX IMPOSED.) There is hereby imposed, beginning the first day of July, 1953 and ending the 30th day of June, 1955 a tax of two percent upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this Act, sold at retail in the state of North Dakota to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of steam, gas, electricity, water and communication service, including the gross receipts from such sales by any municipal corporation furnishing steam, gas, electricity, water and communication service to the public in its proprietary capacity, except as otherwise provided in this Act, when sold at retail in the state of North Dakota to consumers or users; and a like rate of tax upon the gross receipts from all sales or tickets or admissions to places of amusement and athletic events and the playing of a record on a vending machine, in response to a coin placed in a slot, except as otherwise provided in this Act. The tax herein levied shall be computed and collected as hereinafter provided.

§ 3. EXEMPTIONS.) There are hereby specifically exempted from the provisions of this Act and from computation of the amount of tax imposed by it, the following:

1. The gross receipts from sales of tangible personal property which this state is prohibited from taxing under the constitution or laws of the United States or under the constitution of this state;
2. The gross receipts from the sales, furnishing or service of transportation service;
3. The gross receipts from sales of tangible personal property processed from agricultural products, when such property is sold in exchange for like agricultural products produced by the purchaser and is for the purchaser and his family;
4. The gross receipts from sales of tickets, or admissions to state, county, district and local fairs, and the gross receipts from educational, religious, or charitable activities, where the entire amount of such receipts is expended for educational, religious or charitable purposes;

5. The gross receipts from the sale by any school board of this state of books and school supplies to regularly enrolled students at costs;
6. Gross receipts from sales of tangible personal property or from furnishing or service of steam, gas, electricity, water, and communication service to the United States, state of North Dakota, or any of its subdivisions, departments or institutions, any county, city, village, township, school district, park district, or municipal corporations;
7. Gross receipts from the sale, by any drug store, of drugs sold under a doctor's prescription; and
8. Gross receipts from sales of commercial fertilizers and from the sale of seeds, roots, bulbs and small plants to users or consumers for planting or transplanting for vegetable gardens or agricultural purposes.

§ 4. TAXES PAID ON WORTHLESS ACCOUNTS.) Taxes paid on gross receipts represented by accounts found to be worthless and actually charged off, for income tax purposes may be credited upon subsequent payment of the tax herein provided; provided, that if such accounts are hereafter collected by the retailer, a tax shall be paid upon the amount so collected. The provisions of this Act shall not apply to sales of gasoline, cigarettes, snuff, insurance premiums, or any other product or article upon which the state of North Dakota may now or hereafter impose a special tax.

§ 5. CREDIT TO RELIEF AGENCY AND LOCAL GOVERNMENTAL UNITS.) A relief agency may apply to the commissioner for refund of the amount of tax imposed hereunder and paid upon sales to it of any goods, wares, or merchandise used for free distribution to the poor and needy. Such refunds may be obtained only in the following amount and in the manner and only under the following conditions:

1. On forms furnished by the commissioner, and during the time herein provided for the filing of quarterly tax returns by retailers, the relief agency shall report to the commissioner the total amount of amounts, valued in money, expended directly or indirectly for goods, wares, or merchandise used for free distribution to the poor and needy;
2. On these forms the relief agency shall separately list the persons making the sales to it or to its order, together with the dates of the sales, and the total amount so expended by the relief agency; and

3. The relief agency must prove to the satisfaction of the commissioner that the person making the sales has included the amount thereof in the computation of the gross receipts of such person and that such person has paid the tax levied by this Act, based upon such computation of gross receipts.

If the commissioner is satisfied that the foregoing conditions and requirements have been complied with, he shall refund the amount claimed by the relief agency.

§ 6. TAX TO BE ADDED TO PURCHASE PRICE AND BE A DEBT.) Retailers shall add the tax imposed under this Act, or the average equivalent thereof, to the sales price or charge and when added such taxes shall constitute a part of such price or charge, shall be a debt from the consumer or user to 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 \$ 0.24.....	No tax
.25 to .74.....	1 c tax
.75 to 1.24.....	2 c tax
1.25 to 1.74.....	3 c tax
1.75 to 2.24.....	4 c tax
2.25 to 2.74.....	5 c tax
2.75 to 3.24.....	6 c tax
3.25 to 3.74.....	7 c tax
3.75 to 4.24.....	8 c tax
4.25 to 4.74.....	9 c tax
4.75 to 5.24.....	10 c tax
5.25 to 5.74.....	11 c tax
5.75 to 6.24.....	12 c tax
6.25 to 6.74.....	13 c tax
6.75 to 7.24.....	14 c tax
7.25 to 7.74.....	15 c tax
7.75 to 8.24.....	16 c tax
8.25 to 8.74.....	17 c tax
8.75 to 9.24.....	18 c tax
9.25 to 9.74.....	19 c tax
9.75 to 10.24.....	20 c tax
Each additional 50c.....	1 c additional tax

§ 7. UNLAWFUL ACT.) No retailer shall advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this Act

shall be assumed or absorbed by the retailer or that it will not be considered as an element in the price to the consumer or if added, that it or any part thereof will be refunded.

§ 8. RECORDS REQUIRED.) Every retailer required to make a report and pay any tax under this Act, shall preserve such records of the gross proceeds of sale as the commissioner may require and every retailer shall preserve for a period of two years all invoices and other records of goods, wares, or merchandise purchased for resale. All such books, invoices, and other records shall be open to examination at any time by the commissioner or any of his duly authorized agents.

§ 9. RETURN OF GROSS RECEIPTS.)

1. On or before the twentieth day of the month following the close of the first quarterly period as defined in the following section, and on or before the twentieth 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 10 of this Act shall be extended for the same period;
2. The commissioner, if he deems it necessary or advisable in order to insure the payment of the tax imposed by this Act, may require returns and payment of the tax to be made for other than quarterly periods, the provisions of section 10 or elsewhere to the contrary notwithstanding; and
3. Returns shall be signed by the retailer or his duly authorized agent.

§ 10. PAYMENT TAX, BOND, CREATION OF LIEN.)

1. The tax levied under the provisions of this Act shall be due and payable in quarterly installments on or before the twentieth day of the month next succeeding each quarterly period, the first of such periods being the period commencing with July 1, 1953;

2. Every retailer, at the time of making the return required hereunder, shall compute and pay to the commissioner the tax due for the preceding period;
3. The commissioner, when in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under this Act, may require any person subject to such 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 and penalties due or which may become due from such person. In lieu of such bond, securities approved by the commissioner in such amounts as he may prescribe, may be deposited with him, which 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 and penalties due. Upon any such sale, the surplus, if any, above the amounts due under this provision shall be returned to the person who deposited the securities.

§ 11. LIEN OF TAX; COLLECTION; ACTION AUTHORIZED.) Whenever any taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the same, the amount including any interest, penalty, or addition to such tax, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to said taxpayer.

The lien aforesaid shall attach at the time the tax becomes due and payable and shall continue until the liability for such amount is satisfied.

In order to preserve the aforesaid lien against subsequent mortgages, 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 said property is located, a notice of said lien.

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

1. The name of the taxpayer;

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

The register of deeds shall endorse on each notice of lien the day, hour and minute when received and preserve the same, and forthwith shall index said notice in said index book and forthwith shall record said lien in the manner provided for recording real estate mortgages, and the said lien shall be effective from the time of the indexing thereof;

The tax commissioner shall pay a recording fee as provided by law for the recording of such lien, or for the satisfaction thereof.

Upon the payment of a tax as to which the tax commissioner has filed notice with the register of deeds, the tax commissioner forthwith shall file with said register of deeds a satisfaction of said tax and the register of deeds shall enter said satisfaction on the notice on file in his office and indicate said fact on the index aforesaid.

The attorney general, upon request of the tax commissioner, shall bring an action at law or in equity, as the facts may justify, without bond to enforce payment of any taxes and any penalties, and in such action he shall have the assistance of the state's attorney of the county in which the action is pending.

It is expressly provided that the foregoing remedies of the state shall be cumulative and that 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.

The technical, legal requirements outlined in this section relating to tax liens on all real and personal property of the taxpayer to insure payment of the taxes, including penalties, interest and other costs, are self-explanatory.

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

§ 12. PERMITS; APPLICATION AND FEE FOR.)

1. No person shall engage in or transact business as a retailer within this state unless a permit or permits shall have

been issued to him as hereinafter prescribed. Every person desiring to engage in or conduct business as a retailer within this state shall file with the commissioner an application for a permit or permits. Every application for such a permit shall be made upon a form prescribed by the commissioner and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the commissioner may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner thereof; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority;

2. At the time of making such application, the applicant shall pay to the commissioner a permit fee of fifty cents for each permit, and the applicant shall have a permit for each place of business;
3. Upon the payment of the permit fee, or fees herein required, the commissioner shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated herein. It shall at all times be conspicuously displayed at the place for which issued;
4. Permits issued under the provisions of this section shall be valid and effective without further payment of fees until revoked by the commissioner;
5. Whenever the holder of a permit fails to comply with any of the provisions of this Act or any rules or regulations prescribed by the commissioner and adopted under this Act, the commissioner upon hearing after giving ten days' notice of the time and place of the hearing to show cause why his permit should not be revoked, may revoke the permit. The commissioner also shall have the power to restore licenses after such revocation;
6. The commissioner shall charge a fee of one dollar for the issuance of a permit to a retailer whose permit has been previously revoked; and
7. All permits in effect at the time this Act takes effect are hereby continued and shall remain in full force and effect unless revoked as herein provided.

§ 13. FAILURE TO FILE RETURN; INCORRECT RETURN.) If a return required by this Act is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the same is required by notice from the commissioner, such 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. Such determination shall fix the tax finally and irrevocably unless the person against whom it is assessed, within thirty days after the giving of notice of such determination, shall apply to the commissioner 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.

§ 14. APPEALS.)

1. An appeal may be taken by the taxpayer to the district court of the county in which he resides, or in which his principal place of business is located, within sixty days after he shall have received notice from the commissioner of his determination as provided for in the preceding section;
2. The appeal shall be taken by a written notice to the commissioner and served as an original notice. When said notice is so served it shall be filed with the return thereon in the office of the clerk of said district court, and docketed as other cases, with the taxpayer as plaintiff and the commissioner as defendant. The plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by such clerk, in penalty at least double the amount of tax appealed from, and in no case shall the bond be less than fifty dollars, conditioned that the plaintiff shall perform the orders of the court; and
3. The court shall hear the appeal in equity and determine anew all questions submitted to it on appeal from the determination of the commissioner. The court shall render its decree thereon and a certified copy of said decree shall be filed by the clerk of said court with the commissioner who shall then correct the assessment in accordance with said decree. An appeal may be taken by the taxpayer or the commissioner to the supreme court

of this state in the same manner that appeals are taken in suits in equity, irrespective of the amount involved.

§ 15. SERVICE OF NOTICE.)

1. Any notice, except notice of appeals authorized or required under the provisions of this Act may be given by mailing the same to the person for whom it is intended by registered mail addressed to such person at the address given in the last return filed by him pursuant to the provisions of this Act, or if no return has been filed, then such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this Act by giving of notice shall commence to run from the date of registration and posting of such notice;
2. The provisions of the laws of this state relative to the limitation of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this Act.

§ 16. PENALTIES, OFFENSES.)

1. Any person failing to file a return or corrected return or to pay any tax within the time required by this Act, shall be subject to a penalty of five percent of the amount of tax due, plus one percent of such tax for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due. The commissioner, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the commissioner and disposed of in the same manner as other receipts under this Act. Unpaid penalties may be enforced in the same manner as the tax imposed by this Act.
2. Any person who shall sell tangible personal property, tickets or admissions to places of amusement, and athletic events, or steam, gas, water, electricity and communication service at retail in this state after his license shall have been revoked, or without procuring a license within sixty days after the effective date of this Act as provided in section 12 of this Act, or who shall violate the provisions of section 7 of this Act, and the officers of any corporation who shall so act, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more

than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment, in the discretion of the court;

3. Any person required to make, render, sign or verify any return or supplementary return, who makes any false or fraudulent return, with intent to defeat or evade the assessment required by law to be made, shall be guilty of a misdemeanor and, for each such offense, shall be fined not to exceed five hundred dollars or shall be imprisoned in the county jail not exceeding one year, or shall be subject to both a fine and imprisonment, in the discretion of the court;
4. The certificate of the commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this Act, shall be prima facie evidence thereof;
5. Any person failing to comply with any of the provisions of this Act, or failing to remit within the time herein provided to the state the tax due on any sale or purchase of tangible personal property subject to said sales tax, shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months or by a fine of not exceeding five hundred dollars, or by both such fine and imprisonment, in the discretion of the court. This criminal liability shall be cumulative and in addition to the civil liability for penalties herein before provided.

§ 17. TAX COMMISSIONER TO ADMINISTER ACT.) The tax commissioner is hereby charged with the administration of this Act and the taxes imposed thereby. Such commissioner may prescribe all rules and regulations not inconsistent with the provisions of this Act, necessary and advisable for its detailed administration and to effectuate the purposes, including the right to provide for the issuance and sale by the state of coupons covering the amount of tax or taxes to be paid under this Act, if such method is deemed advisable by said commissioner.

§ 18. TAX AND PENALTIES PAID TO COMMISSIONER: RETAIL SALES TAX FUND.) All fees, taxes, interest, and penalties imposed and collected under this Act shall be paid to the commissioner in the form of remittance payable to the treasurer of the state of North Dakota, and said commissioner shall transmit each payment monthly to the state treasurer to be deposited in the state treasury to the credit of a fund to be known as the retail sales tax fund, which fund is hereby created and established.

§ 19. GENERAL POWERS.)

1. The commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income and receipts of any taxpayer, shall have power to examine or cause to be examined by any agent or representative designated by him, books, papers, records, or memoranda; to require by subpoena the attendance and testimony of witnesses; to issue and sign subpoenas; to administer oaths, to examine witnesses and receive evidence; to compel witnesses to produce for examination books, papers, records, and documents relating to any matter which he shall have the authority to investigate or determine;
2. Where the commissioner finds the taxpayer has made a fraudulent return, the costs of said hearing shall be taxed the taxpayer. In all other cases the cost shall be paid by the state;
3. The fees and mileage to be paid witnesses and taxed as costs shall be the same as prescribed by law in proceedings in the district court of this state in civil cases. All costs shall be taxed in the manner provided by law in proceedings in civil cases. Where the costs are taxed to the taxpayer, they shall be added to the taxes assessed against said taxpayer and shall be collected in the same manner. Costs taxed to the state shall be certified by the commissioner to the state treasurer, who shall issue warrants for the amount of said costs, to be paid out of the proceeds of the taxes collected under this Act;
4. In cases of disobedience to a subpoena the commissioner may invoke the aid of any court of competent jurisdiction in requiring the attendance and testimony of witnesses and production of records, books, papers, and documents, and such court may issue an order requiring the person to appear before the commissioner and give evidence or produce records, books, papers, and documents, as the case may be, and any failure to obey such order of court may be punished by the court as contempt thereof;
5. Testimony on hearings before the commissioner may be taken by a deposition as in civil cases, and any person may be compelled to appear and depose in the same manner as witnesses may be compelled to appear and testify as hereinbefore provided.

§ 20. COMMISSIONER MAY APPOINT AGENTS AND EMPLOYEES; COMPENSATION; BOND; DUTY OF COUNTY TREASURER.)

1. The commissioner may appoint such agents, auditors, clerks, and employees as he may deem necessary (,) fix

their salaries and compensation and prescribe their duties and powers, and said commissioner may remove such agents, auditors, clerks and employees so appointed by him. The number of inspectors appointed shall not exceed ten, each of whom shall have had at least three years experience in the auditing and checking of books of account;

2. All such agents and employees shall be allowed such reasonable and other necessary traveling expenses as may be incurred in the performance of their duties not to exceed, however, such amounts as are now or may hereafter be fixed by law;
3. The commissioner may require such of the officers, agents, and employees as it may designate to give bond for the faithful performance of the duties in such sum and with such sureties as it may determine and the state shall pay, out of the proceeds of the taxes collected under the provisions of this Act, the premiums on such bonds;
4. The commissioner may utilize the office of the treasurer of the various counties in order to administer this Act and effectuate its purposes and may appoint the treasurers of the various counties its agents to collect any or all of the taxes imposed by this Act. No additional compensation shall be paid to said treasurer by reason thereof.

§ 21. INFORMATION DEEMED CONFIDENTIAL.) It shall be unlawful for the commissioner, or any person having an administrative duty under this Act, to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any person or corporation visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract of particulars thereof to be seen or examined by any person except as provided by law. The commissioner may authorize examination of such returns by other state officers, or, if a reciprocal arrangement exists, by tax officers of another state, or the federal government. Any person violating the provisions of this section shall be guilty of a misdemeanor and punishable by a fine of not to exceed one thousand dollars.

§ 22. CORRECTION OF ERRORS.) If it shall appear that, as a result of a mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of this Act,

then such amount shall be credited against any tax due, or to become due under this Act, from the person who made the erroneous payment, or such amount shall be refunded to such person by the commissioner.

§ 23. PAYMENT OF REFUND.) Wherever by any provisions of this Act, a refund is authorized, the commissioner shall certify the amount of the refund, the reason therefor and the name of the payee to the state auditor, who shall thereupon draw his warrant on the retail sales tax fund in the amount specified payable to the named payee.

§ 24. ALLOCATION OF REVENUE.) All moneys collected and received under this Act shall be paid into the state treasury and shall be credited by the state treasurer into a special fund to be known as the "retail sales tax fund." Out of this fund the state treasurer shall first provide for the payment of refunds allowed under this Act. The net amount of moneys remaining in said "retail sales tax fund" shall be a special trust fund to be used and disbursed solely for the following purposes:

1. Seven-twelfths of said trust fund shall be used and disbursed only for the payment of appropriations made pursuant to and for the purposes set forth in the state equalization fund law. The remaining five-twelfths of said trust fund shall be used and disbursed only for the payment of appropriations to be expended by the public welfare board for the purpose authorized by law; provided, that appropriations made from the general fund to be expended by said public welfare board shall constitute and include appropriations from said five-twelfths share of said trust fund;
2. The state treasurer and state auditor shall make monthly transfers of all amounts available in said trust fund, in the proportions provided herein to the state equalization fund and to be expended by said public welfare board as provided by law.

§ 25. APPROPRIATION.) All moneys now in the retail sales tax fund created by chapter 341 of the session laws of 1949, or collected pursuant to the provisions of said chapter, are hereby appropriated and transferred into the retail sales tax fund created by this Act, and shall be allocated and used as herein provided.

§ 26. SAVINGS CLAUSE.) If any section, subsection, clause, sentence, or phrase of this Act is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this Act. The legislature

hereby declares that it would have passed this Act, and each section, subsection, clause, sentence or phrase hereof, irrespective of whether any one or more of the sections, subsections, clauses, sentences, or phrases, be declared unconstitutional.

Approved March 13, 1953.

CHAPTER 333

H. B. No. 779
(Wolf of McIntosh-Logan)

COST OF COLLECTING MOTOR FUEL USE TAX

AN ACT

To amend and reenact section 57-4114 of the 1949 Supplement to the North Dakota Revised Code of 1943 relating to cost of collecting motor fuel tax.

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

§ 1. AMENDMENT.) Section 57-4114 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-4114. DEDUCTION OF COST OF COLLECTING.) On making payments to the state auditor as is provided in this chapter, and all other chapters or acts pertaining to the tax on motor vehicle fuel, the dealer first shall deduct from the amount of tax due two percent thereof to cover the cost of collecting the tax and transmitting the same to the state auditor.

Approved March 14, 1953.

CHAPTER 334

H. B. No. 625
(Committee on Appropriations)

CANCELLATION OF MOTOR VEHICLE FUEL TAX
REFUND CHECKS OVER TEN YEARS OLD

AN ACT

Providing for the cancellation of checks issued by the state auditor, motor vehicle fuel tax refunds which are more than ten years old and deposit to the general fund and subsequent payment, and declaring an emergency.

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

§ 1. REFUND CHECKS OF THE STATE AUDITOR FOR THE MOTOR VEHICLE FUEL TAX; CANCELLATION; DEPOSIT TO GENERAL FUND.) The state auditor, promptly after the effective date of this Act shall prepare a list of the motor vehicle fuel tax refund checks drawn upon the Bank of North Dakota, dated more than ten years prior to the effective date of this act which remain outstanding and unpaid, showing the serial number, date, name of payee, address of payee if available, and amount. A copy of such list with a check for the total amount thereof drawn on the Bank of North Dakota shall be delivered to the state treasurer and the amount thereof shall be credited to the general fund.

§ 2. SUBSEQUENT PAYMENT.) In the event such check or checks is at any subsequent time presented for payment, the holders thereof shall execute a voucher for the amount, to which shall be attached the original check or other satisfactory evidence of ownership of such check. The voucher when approved by the state auditing board shall be paid by a state auditor's warrant drawn on the general fund.

§ 3. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage.

Approved February 20, 1953.

CHAPTER 335

H. B. No. 780
(Wolf of McIntosh-Logan)

MOTOR FUEL USE TAX

AN ACT

To amend and reenact section 57-4202 of the North Dakota Revised Code of 1943 as amended by chapter 330 of the Session Laws of 1951 and subsection 4 and 5 of section 57-4203 and subsection 1 of section 57-4204 of the North Dakota Revised Code of 1943 relating to motor fuel use tax.

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

§ 1. AMENDMENT.) Section 57-4202 of the North Dakota Revised Code of 1943 as amended by chapter 330 of the 1951 session laws of the state of North Dakota is hereby amended and reenacted to read as follows:

57-4202. LEVY OF TAX.) For the privilege of using the public highways in this state, an excise tax is imposed hereby on the use of fuel by any person within this state, at the rate of five cents per gallon, computed and paid in the manner hereinafter provided.

§ 2. AMENDMENT.) Subsection 4 and subsection 5 of section 57-4203 of the North Dakota Revised Code of 1943 are hereby amended and reenacted to read as follows:

4. Upon such application a fee of seven dollars shall be paid by the applicant for each unit operated;
5. Each application shall be accompanied by a bond running to the state of North Dakota, in which the applicant shall be the principal obligor, conditioned for the payment of any and all tax which may become due from said applicant. Such bond shall be in the form of and subject to all the other provisions relating to bonds specified in chapter 41 of this title, and such bond shall be in an amount to be fixed by the state auditor, and not less than two thousand dollars;

§ 3. AMENDMENT.) Subsection 1 of section 57-4204 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-4204. REPORT AND PAYMENT OF TAX.) Reports of motor fuel used shall be filed and the use tax imposed shall be paid as follows:

1. For the purpose of determining the amount of tax imposed under this chapter, each user, not later than the twenty-fifth day of each calendar month, shall file with the state auditor, on forms prescribed by the state auditor, monthly reports sworn to by the user which shall include the total gallonage of fuels used within this state, per unit, as defined in this chapter, and shall further include the total mileage traveled, per unit, upon or over North Dakota highways, during the preceding month. The requirement as to report of mileage shall not apply to motor vehicles used in the construction, reconstruction or repair of state or county highways, township roads, city and village streets, parks or airports. This Act shall include all farm trucks.

§ 4. PENALTY.) Any person, user or dealer, who makes any false statement or fraudulent report, and any user who does not provide himself with a license as a user, as is required under chapter 57-42 of the North Dakota Revised Code of 1943, is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

Approved March 13, 1953.

CHAPTER 336

H. B. No. 849
(Delayed Bills Committee)

STATE HIGHWAY ANTICIPATION CERTIFICATES

AN ACT

Amending and reenacting sections 57-4803 and 57-4804 of the 1949 Supplement to the North Dakota Revised Code of 1943 relating to state highway anticipation certificates and providing for an increase in the amount of anticipation certificates to be issued, and continuing tax and other provisions of chapter 57-48 of said Supplement in effect.

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

§ 1. AMENDMENT.) Section 57-4803 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-4803. HIGHWAY COMMISSIONER AUTHORIZED TO ISSUE STATE HIGHWAY REVENUE ANTICIPATION CERTIFICATES; AMOUNT.) After the state highway department shall have prepared the plan and program for the construction and reconstruction of public highways and bridges, as directed in section 57-4801 of the North Dakota Revised Code of 1943, and has determined the amount that will be required to pay the state's share of the estimated cost of such construction and reconstruction program, the state highway commissioner is authorized and directed, with the approval of the governor, to prepare and issue said state highway revenue anticipation certificates in a total aggregate amount not exceeding fifteen million three hundred sixty thousand dollars (\$15,360,000.00) par value, in form as hereinafter provided.

§ 2. AMENDMENT.) Section 57-4804 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-4804. CERTIFICATES; FORM; MATURITY; INTEREST; AMOUNT ISSUED PER YEAR; EXEMPT FROM TAX; PAYABLE IN ADVANCE; DUTY OF STATE TREASURER.) Said certificates shall be negotiable instruments and shall be issued in serial form, numbered consecutively, shall mature serially in such annual amounts as may be determined in anticipation of the revenues pledged for their payment, commencing one year from date of issue, and the last installment to mature not more than twenty (20)

years from date of issue, shall bear interest at a rate not exceeding three per cent (3%) per annum, payable semi-annually, shall be issued in denominations of one thousand dollars (\$1,000.00), or multiples thereof, the total amount of said certificates to be issued in any fiscal year not to exceed the sum of six million dollars (\$6,000,000.00) face amount, and the total aggregate amount of the certificates to be issued not to exceed the sum of fifteen million three hundred sixty thousand dollars (\$15,360,000.00) face amount. The principal and interest of said certificates shall be exempt from all taxes, shall be payable to bearer, unless registered with the state treasurer in the name of the owner, and in that case to the registered owner, and shall be payable at the office of the state treasurer at Bismarck, North Dakota at maturity, unless called for payment before maturity. Said certificates may have attached thereto coupons evidencing the semi-annual interest payable thereon. In the event funds are available for the redemption of the whole or any part of an annual installment or installments of said certificates, in addition to the annual installment maturing and payable in the current year, the state highway commissioner may call for payment on any interest date and in advance of maturity at par or at call price or prices as the certificates may provide, the whole or any portion of any annual installment or installments then outstanding by publishing notice of such call once and not less than sixty days prior to the call date in a newspaper of general circulation published in each of the cities of Bismarck and Fargo, North Dakota, Minneapolis, Minnesota, Chicago, Illinois and New York City, New York, and the certificates so called for payment shall become due and payable on the call date specified in said notice and shall cease to bear interest thereafter. Said certificates shall be executed in the name of the state highway department, and shall be signed by the governor, the state highway commissioner and the state treasurer and shall have endorsed thereon a certificate signed by the state auditor and secretary of state to the effect that the same are issued pursuant to the authority of this Act (chapter) and are payable solely from revenues pledged for their payment, as stated in this Act (chapter), and that no indebtedness is incurred by the state by the issuance thereof. The state treasurer shall keep a register of all certificates issued, showing, among other things, the date of issue, the serial number, the denomination, the maturity date, the name of the registered owner, if any, and the date the certificate is redeemed and paid. He shall endorse his certificate upon each state highway revenue anticipation certificate issued that it is registered in his office. In case any of the officers whose signatures appear on said certificates or the interest coupons attached thereto

shall cease to be such officers before delivery of such certificates, such signatures shall nevertheless be valid and sufficient for all purposes with the same force and effect as if they had remained in office until such delivery.

§ 3. CONTINUATION OF CHAPTER 57-48 OF THE 1949 SUPPLEMENT TO THE NORTH DAKOTA REVISED CODE OF 1943 IN EFFECT.) All certificates which may be issued under the provisions of this Act shall be serviced and paid as certificates heretofore issued under the provisions of chapter 57-48 of the 1949 Supplement to the North Dakota Revised Code of 1943, as amended, all tax and other provisions of which chapter are hereby extended, continued and made applicable to certificates which may be issued to the amount of \$15,360,000.00 under the provisions of this act.

Approved March 19, 1953.

CHAPTER 337

S. B. No. 45
(Legislative Research Committee)

TERMS OF PUBLIC LAND LEASE FOR UNIT OIL AND GAS DEVELOPMENT

AN ACT

To amend and reenact section 5 of chapter 232 of the North Dakota Session Laws of 1951, relating to unit operation of public lands.

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

§ 1. AMENDMENT.) Section 5 of chapter 232 of the North Dakota session laws of 1951 is hereby amended and reenacted to read as follows:

§ 5. TERMS OF LEASE; UNIT OPERATION.) All leases for the purposes as hereinbefore provided shall be made by the state of North Dakota and all agencies and departments and political subdivisions thereof for twenty-five cents per acre, per year for deferred drilling and shall be made with a royalty reservation of one-eighth of all oil and gas produced from said land as long as oil and gas may be produced from said land. The term one-eighth as used herein shall be construed to mean one-eighth of such interest as may be owned by the lessor. All

leases hereunder shall be made for a period of not less than five years and shall continue in effect under the terms thereof as long as oil or gas may be produced thereon in commercial quantities. The state of North Dakota and all agencies, departments, and political subdivisions thereof, are specifically authorized to enter into agreements for the consolidation of land covered by leases on lands under the jurisdiction of such bodies with other adjoining or neighboring lands for the purpose of joint development and operation of the entire consolidated premises as a unit. In such a case, such agreement shall provide that the lessor shall share in the royalty on oil and gas produced from a consolidated tract in the proportion that the area of the land covered by such lease bears to the total area of such consolidated tract, or upon such other royalty sharing basis as may appear equitable to the governing body controlling or administering such lands; and operations or production on such consolidated tract shall have the same effect as operations or production under the terms of each such lease included therein.

Approved March 2, 1953.

CHAPTER 338

S. B. No. 113
(Senator Wog)

REFUND OF MOTOR FUELS TAX

AN ACT

To amend and reenact section 57-5001 of the 1949 Supplement to North Dakota Revised Code of 1943 relating to the refund of motor fuels tax.

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

§ 1. AMENDMENT.) Section 57-5001 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-5001. REFUND OF TAX PROVIDED FOR.) After December 31, 1946, any person, firm or corporation who shall buy or use any motor vehicle fuel as defined in subparagraph 2 of section 57-4101, Revised Code of North Dakota for 1943, 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 the state of North Dakota on which the motor vehicle fuel tax has been paid, shall be reimbursed or repaid within the time hereinafter provided, the amount of such tax paid by him upon the presentation to and the approval of the state auditor of a claim for refund. Those aviation gasoline fuel taxes collected, upon which no refund is claimed and those revenues remaining as unclaimed refunds under the provisions of the statutory refunds on aviation gasoline and aviation motor fuels are hereby appropriated, in accordance with the time limitations as provided by law, and used exclusively for construction, reconstruction, repair, maintenance and operation of small landing strips near highways and communities in this state and for the purchase of necessary land required therefor and shall be administered and expended by the state of North Dakota aeronautics commission for the above purpose.

Approved March 10, 1953.

CHAPTER 339

S. B. No. 41
(Legislative Research Committee)

GROSS PRODUCTION TAX ON PRODUCING OIL AND GAS PROPERTIES

AN ACT

To provide a gross production tax on producing oil and gas properties in lieu of other taxes; to provide for the administration thereof; and to provide for the distribution of the proceeds of such tax.

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

§ 1. DEFINITIONS.) As used in this Act:

1. "Oil" shall mean petroleum, crude oil, mineral oil, and casinghead gasoline;
2. "Gas" shall mean natural gas and casinghead gas;
3. "Barrel of oil" shall mean 42 U. S. gallons of 231 cubic inches per gallon computed at a temperature of sixty degrees fahrenheit;

4. "Person" shall include partnership, corporation, association, fiduciary, trustee, and any combination of individuals;
5. "Commissioner" shall mean the state tax commissioner.
6. The words "quarter" and "quarterly" as used in this Act shall mean quarter annual periods of three calendar months each, and the first such quarter shall commence on July 1, 1953.

§ 2. GROSS PRODUCTION TAX.) A tax of four and one-quarter per centum of the gross value at the well is hereby levied upon all oil and gas produced within the state of North Dakota, less the value of any part thereof, the ownership or right to which is exempt from taxation. The tax hereby levied shall attach to and is hereby levied upon the whole production, including what is commonly known as the royalty interest.

§ 3. GROSS PRODUCTION TAX TO BE IN LIEU OF OTHER TAXES.) The payment of the taxes herein imposed shall be in full, and in lieu of all ad valorem taxes by the state, counties, cities, towns, townships, school districts and other municipalities, upon any property rights attached to or inherent in the right to producing oil and/or gas, upon producing oil and/or gas leases, upon machinery, appliances and equipment used in and around any well producing oil or gas and actually used in the operation of such well, and also upon oil and gas produced in the state upon which gross production taxes have been paid, and upon any investment in any property hereinbefore in this paragraph mentioned or described. Any interest in the land, other than that herein enumerated, shall be assessed and taxed as other property within the taxing district in which such property is situated. It is expressly provided that the gross production tax shall not be in lieu of income taxes nor excise taxes upon the sale of oil and gas products as retail.

§ 4. EQUIPMENT USED IN PRODUCTION EXEMPT FROM AD VALOREM TAX.) No equipment, material or property shall be exempt from the payment of ad valorem tax by reason of the payment of the gross production tax as herein provided except such equipment, machinery, tools, material or property as is actually necessary and being used at the site of a producing well in the production of oil or gas; and it is expressly declared that no ice plants, hospitals, office buildings, garages, residences, gasoline extraction or absorption plants, water systems, fuel systems, rooming houses and other buildings, nor any equipment or material used in connection therewith shall be exempt from ad valorem tax, nor shall drilling rigs be exempt except as provided in section 57-0219. The real property

shall not be exempt under this Act except to the extent of the mineral interests therein.

§ 5. PAYMENT OF TAX ON QUARTERLY BASIS; WHEN TAX DUE; WHEN DELINQUENT; PAYMENT BY PURCHASER; BY PRODUCER; HOW CASINGHEAD GAS TAXED.) The gross production tax on oil or gas, as herein provided, shall be paid on a quarterly basis. Said tax shall become due on the last day of the calendar month 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 month succeeding the month in which the same becomes due the tax shall become delinquent and shall be collected as herein provided. On oil or gas sold at the time of production, the gross production tax thereon shall be paid by the purchaser, and such purchaser shall and is hereby authorized to deduct in making settlement with the producer and/or royalty owner, the amount of tax so paid; provided, that in the event oil on which such gross production tax becomes due is not sold at the time of production but is retained by the producer, the tax on such oil not so sold shall be paid by the producer for himself including the tax due on royalty oil not sold; provided further, that in settlement with the royalty owner such producer shall have the right to deduct the amount of such tax so paid on royalty oil or to deduct therefrom royalty oil equivalent in value at the time such tax becomes due with the amount of the tax paid. Gas when produced and utilized in any manner, except when used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas therefrom, or for repressuring thereon, shall be considered for the purpose of this Act, as to the amount utilized, as gas actually produced and saved. In case oil or gas is sold under circumstances where the sale price does not represent the cash price thereof prevailing for oil or gas of like kind, character or quality in the field from which such product is produced, the state tax commissioner may require the said tax to be paid upon the basis of the prevailing price then being paid at the time of production thereof in said field for oil, or gas of like kind, quality and character.

§ 6. 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 the last day of the calendar month following a quarterly period 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 purchaser and/or producer, as the case may be, shall be delinquent thirty days after the time fixed for filing the same, and every person required to file such report shall be subject to 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 per cent per annum for delinquent tax, 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.

§ 7. POWERS OF STATE TAX COMMISSIONER.) The commissioner shall have power to require any person engaged in such production and the agent or employee of such person, and/or purchaser of such oil or gas, or the owner of any royalty interest therein to furnish any additional information by him deemed to be necessary for the purpose of correctly computing the amount of said tax, and to examine the books, records and files of such person, and shall have power to conduct hearings and compel the attendance of witnesses, the production of books, records and papers of any person, and full authority to make any investigation or hold any inquest deemed necessary to a full and complete disclosure of the true facts as to the amount of production from any oil or gas location, or of any company or other producer thereof, and as to the rendition thereof for taxing purposes.

§ 8. STATE BOARD OF EQUALIZATION MAY ADJUST RATE OF GROSS PRODUCTION TAX TO EQUAL THE GENERAL AD VALOREM TAX.) The state board of equalization, upon its own initiative, may, and upon complaint of any person who claims that he is taxed too great a rate hereunder, shall take testimony to determine whether the taxes herein imposed are greater than the general ad valorem tax for all purposes would be on the property of such producer subject to taxation in the district or districts where the same is situated and also the value of oil, gas, or mineral leases, or of the mineral rights, the machinery, equipment or appliances used in the actual operation of, in and around any such well, the value of the oil and/or gas produced and any other element of value in lieu of which the tax herein is levied. In determining the amount of tax payable under the general ad valorem tax, the average statewide mill levy of the state and its political subdivisions shall be applied. The said board shall have power and it shall be its duty to lower the rates herein imposed to conform thereto.

§ 9. STATE TAX COMMISSIONER SHALL COMPUTE TAX ON INCORRECT RETURNS.) The commissioner shall have the power and authority to ascertain and determine whether or not any return herein required to be filed with him is a true and correct return of the gross products, and of the value thereof, of such person; and if any person has made an untrue or incorrect return of the gross production or value thereof, as hereinbefore required, or shall have failed or refused to make such return, the commissioner shall under rules and regulations prescribed by him, ascertain the correct amount of either, and compute said tax.

§ 10. PROCEEDINGS AND PENALTY ON DELINQUENCY.) Where the tax provided for in this Act shall become delinquent it shall, as a penalty for such delinquency, bear interest at the

rate of seven per cent per annum, and shall be collected in the manner hereinafter provided. If any person shall fail to make any report herein required, within the time prescribed by law for such report it shall be the duty of the commissioner to examine the books, records and files of such person to ascertain the amount and value of such production to compute the tax thereon as provided herein, and he shall add thereto the cost of such examination, together with any penalties accrued thereon.

§ 11. LIEN FOR TAX.) The tax herein referred to shall, at all times, be and constitute a first and paramount lien against the purchaser's or producer's property as the case may be, both real and personal; and the provisions hereof, making the purchaser liable to pay such tax, and the provisions requiring the producer to pay the royalty owner's tax, in no way releases the producer or purchaser from liability to pay same, in all cases where such tax is not paid, and it may be recovered at the suit of the state, upon relation to the commissioner, in any court of competent jurisdiction of the county where any such property, assets and effects are located.

§ 12. DELINQUENT TAXES; SALE OF PROPERTY.) When any tax provided for in this Act shall become delinquent, the commissioner shall issue warrants directed to the sheriff of any county wherein the same, or any part thereof accrued, for the collection of said tax, interest and penalty; and the sheriff to whom said warrant shall be directed, shall proceed to levy upon the property, assets and effects of the person liable for such tax, and shall sell the same and make return thereof, as upon execution. The state of North Dakota, through the commissioner, is authorized to make bids at any such sale to the amount of tax, penalty and costs accrued.

§ 13. FALSE REPORT DEEMED PERJURY.) Any person who shall knowingly make any false oath to any report required by the provisions of this Act shall be deemed guilty of perjury.

§ 14. DUTIES OF STATE TAX COMMISSIONER AND STATE TREASURER.) It shall be the duty of the commissioner to deposit with the state treasurer all moneys collected by him under this Act and to accompany each remittance, when possible, with a certificate showing the county where produced. The state treasurer, quarterly, shall pay over to the county treasurers of the several counties the moneys to which they are entitled hereunder.

§ 15. APPORTIONMENT AND USE OF PROCEEDS OF TAX.) The gross production tax provided for in this Act shall be apportioned as follows, to-wit:

1. First an amount equal to one-quarter of one per cent of the gross value at the well of the oil and gas upon which a tax is collected under this Act shall be deposited with the state treasurer, who shall credit it to the general fund.
2. The first two hundred thousand dollars of annual revenue after the deduction of the amount provided for in subsection 1 of this section from oil or gas produced in any county shall be allocated seventy-five per cent to that county and twenty-five per cent to the state general fund. The second two hundred thousand dollars of annual revenue after the deduction of the amount provided for in subsection 1 of this section from oil or gas produced in any county shall be allocated fifty per cent to that county and fifty per cent to the state general fund. All annual revenue after the deduction of the amount provided for in subsection 1 of this section above four hundred thousand dollars from oil or gas produced in any county shall be allocated twenty-five per cent to that county and seventy-five per cent to the state general fund.
3. Forty per cent of all revenues allocated to any county hereunder shall be credited by the county treasurer to the county road and bridge fund. Forty-five per cent of all revenues allocated to any county shall be apportioned by the county treasurer quarterly to school districts within the county on the average daily attendance distribution basis, as certified to him by the county superintendent of schools. Fifteen per cent of all revenues allocated to any county hereunder shall be paid quarterly by the county treasurer to the incorporated cities and villages of the county based upon the population of each incorporated city and village according to the last official decennial federal or official state census.

§ 16. DISTRIBUTION OF PROCEEDS TO GENERAL REVENUE FUND IN CERTAIN CASES.) In all cases where gross production tax is paid to the commissioner and the reports accompanying such tax are insufficient to enable said commissioner to determine the source, by county, from which it is produced and he is unable to secure such information as will enable him to determine the source of such oil or gas, it shall be the duty of the commissioner, at the expiration of six months from the date of payment of such gross production tax, to apportion the same to the general fund of the state of North Dakota and to so certify to the state treasurer.

§ 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, pipe line or transportation company to furnish to the commissioner, upon forms prescribed by him, 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 Act; 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 to the commissioner, upon forms prescribed by him, 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 period, and oil on hand at the close of such period, that may be required to properly enforce the provisions of this Act. 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 a report to the commissioner, upon forms prescribed by him, 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 and shall be delinquent thirty days after each period. 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 Act; 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.

§ 18. PAYMENT WHERE OWNERSHIP IS IN DISPUTE; ASSIGNMENT AS SECURITY.) Whenever oil or gas subject to gross production tax under the laws of this state is in litigation or dispute involving ownership of such oil or gas, and such oil or gas is sold, the usual gross production tax, as provided by law, shall be paid from the proceeds or funds in the hands of the purchaser of such oil or gas and in lieu of payment for such production, to the extent of such tax; the commissioner's receipt therefor shall be accepted in lieu of money in settlement of the purchase price of such production; and wherever any such oil or gas is assigned as security for debt or otherwise, such tax shall be likewise paid by such assignee; and such tax shall

constitute a lien upon the interest assigned, which shall be paramount to such indebtedness for which the assignment is made; and whenever such tax shall become delinquent, the usual penalty shall apply.

§ 19. REFUND OF OVERPAYMENTS, DUPLICATE PAYMENTS, AND ERRONEOUS PAYMENTS.) In all cases of overpayment, duplicate payment or payment made in error, the state tax commissioner may issue his certificate stating therein the facts and the amount of the refund to which the taxpayer may be entitled. Upon presentation of such certificate to the state auditor, the state auditor shall issue a warrant for the purpose of refunding any such overpaid, duplicate or erroneous tax out of the unapportioned gross production tax in the state treasury and a pro rata share thereof shall be charged against the county entitled to share in such tax.

§ 20. STATEMENTS AS TO TAX ON SETTLEMENTS; ACCEPTANCE OF DEDUCTIONS.) All statements or settlement sheets for oil or gas shall have stamped or written thereon the following words: "Gross production tax deducted and paid, and payee accepts such deduction and authorizes payment thereof to the state of North Dakota."

§ 21. RULES AND REGULATIONS; BOND; REPORTS; ACTIONS.) The commissioner is hereby authorized and empowered to prescribe and promulgate all necessary rules and regulations for the purpose of making and filing of all reports required hereunder and otherwise necessary to the enforcement of this Act; and may, at his option and discretion, require a sufficient bond from any person charged with the making and filing of reports and the payment of the taxes herein imposed; and said bond shall run to the state of North Dakota and shall be conditioned upon the making and filing of reports as required by law, upon compliance with the rules and regulations of the commissioner, and for the prompt payment, by the principal therein, of all taxes justly due the state by virtue of the provisions hereof; and when any reports required have not been filed, or may be insufficient to furnish all the information required by the commissioner, the commissioner shall institute, in the name of the state of North Dakota upon relation of the commissioner, any necessary action or proceedings in the courts having jurisdiction, to enjoin such person from continuing operations until such reports have been filed as required, and in all proper cases, injunction shall issue without bond from the state of North Dakota. Upon showing that the state is in danger of losing its claims or the property is being mismanaged, dissipated or concealed, a receiver shall be appointed at the suit of the state.

§ 22. NONCOMPLIANCE BY PRODUCERS, REFINERS, PROCESSORS OR PURCHASERS.) Wilful failure on the part of any such producer, refiner, processor or purchaser of oil or gas to comply with the provisions of this Act shall be deemed a misdemeanor. Each day's failure to file a report within the period of time fixed in this Act shall constitute a separate offense.

§ 23. APPLICATION OF ACT.) The tax imposed by this Act shall apply to oil and gas produced from and after the effective date of this Act.

Approved March 21, 1953.