

TAXATION

CHAPTER 347

H. B. No. 563
(Fristad)

NONTAXATION OF GOODS IN TRANSIT

AN ACT

Relating to exemption from taxation of personal property in transit through this state, and providing a penalty.

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

§ 1. Definition; Exemption.) Personal property in transit through this state is personal property, goods, wares and merchandise which is,

1. Moving in interstate commerce through or over the state of North Dakota, or
2. Consigned to a warehouse or storage facility within the state from outside its boundaries for storage or assembly in transit to a final destination, whether specified when transportation begins or afterward, also outside this state.

Such personal property is deemed to have acquired no situs in North Dakota for taxation purposes. Such property shall not be deprived of exemption because while in the warehouse it is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The exemption granted shall be liberally construed to effect the purposes of this Act.

§ 2. Records.) All property claimed to be "no situs" under this Act shall be designated as being "in transit" upon the books and records of the warehouse wherein the same is located, which books and records shall contain a full, true and correct inventory of all such property, together with the date of receipt, the date of withdrawal, the point of origin, and the point of destination thereof and the point of ultimate destination thereof if known. Such books and records shall at all times be open to the inspection of all taxing authorities of this state and their political subdivisions and agents. Any person, firm, corporation, association, or copartnership making claim to "no situs" status on any property under this Act shall

do so in the manner and form prescribed by the state tax commissioner and all such claims shall be accompanied by a certification of the warehouse company or storage facility as to the status on their books of the property involved.

§ 3. Reconsignment; Report; Tax.) If any personal property originally "in transit" hereunder is reconsigned to a final destination within this state, the warehouseman shall file a monthly report with the local assessor of the county in which the warehouse is located, in the manner and form prescribed by the state tax commissioner, and all such property so reconsigned shall be assessed and taxed as though never exempt hereunder.

§ 4. Criminal Penalty.) Any person who willfully delivers a statement to an officer charged with tax assessment of property containing a false statement of a material fact, whether it be an owner, or shipper, or agent of either or a storage or warehouseman of such agent, is guilty of a misdemeanor punishable by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than one year, or both.

§ 5. Civil Penalty.) If any owner, shipper, or the agent of either shall by misrepresentation, concealment or violation of the provisions of this Act evade the assessment or levy of taxes on property not within the exemption and definition of property in transit, he is liable in the sum of the taxes evaded which would otherwise have been levied on his property, to be collected in a civil action on behalf of the state or political subdivision, and to be commenced and maintained by the county states attorney. The judgment when entered shall include all costs and an attorney fee for the plaintiff in his official capacity, and shall be not less than the amount of taxes so evaded.

§ 6. Construction.) This Act shall be construed as being part of and an addition to chapter 2 of title 57 of the North Dakota Revised Code of 1943 as amended.

Approved March 15, 1957.

CHAPTER 348

H. B. No. 780
(Lynch)

TAXATION OF LIVESTOCK

AN ACT

Relating to assessment, levy and collection and distribution of taxes on livestock brought, driven or coming into this state after the regular annual assessment date of such property.

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

§ 1.) Any livestock, brought, driven or coming into this state at any time during the year and which shall remain in the state for a period not less than thirty days, shall be subject to taxation and shall be assessed for all taxes, levied or leviable for that year in the county in which the same shall thus be and remain, in the same manner and to the same extent, except as hereinafter otherwise provided, as though such property had been in the county on the regular assessment date if such property has not been regularly assessed for the year in some other county of the state. Nothing herein contained shall be construed as authority to assess or levy an additional tax against any rancher, farmer or livestock dealer within this state on livestock brought into the county to replenish the stock of such rancher, farmer or livestock dealer, so long as such addition does not materially increase the inventory of livestock which has been duly assessed to such rancher, farmer or livestock dealer as of the regular assessment date.

All livestock governed by section 1 shall be immediately assessed and the tax thereon collected as hereinafter provided.

§ 2.) If such livestock is brought or driven or comes into any county before April first, the tax levied or to be levied thereon shall be the full amount of the tax computed as provided by law, but if brought, driven or coming into the county after April first the tax levied or to be levied against such property shall be prorated according to the ratio which the number of months remaining in said calendar year bears to the total number of months in said year. For the purpose of determining such taxes, the levy made during the previous year shall be used if the levy for the current year has not been made.

§ 3.) The owner or the agent, manager or foreman of any person, firm, corporation, or association bringing livestock into

this state after the first Monday in March shall immediately after said livestock crosses the state line, forward to the county auditor of the county into which the livestock is moved, a registered or certified letter informing the auditor of the name of the owner of such livestock, the number thereof, the brand thereon, and their ages and sex, together with the time and place at which they were brought across the state line and where now located in the county. The livestock sanitary board shall at least once each month furnish from its own records to the assessor or auditor of the county into which such livestock is moved, a list of the number and kind of livestock so moved, together with the name of the owner thereof.

§ 4.) The county auditor upon receipt of such letter or other information, that livestock has been brought into his county from outside of the state, after the first Monday in March in any year, shall immediately proceed to assess the property in the same manner as is provided for the assessment of omitted property in sections 57-1401 and 57-1403 of the North Dakota Revised Code of 1943, and shall give notice thereof as provided in section 57-1402 of the Code, and the board of county commissioners shall hear complaints with respect thereto and shall review and equalize such assessments as provided in section 57-1404 of the North Dakota Revised Code of 1943, and the county auditor shall enter such property on the tax lists as provided in section 57-1404.

§ 5.) If any owner of livestock driven into the state as hereinbefore provided intends to move said livestock from the county of entry to another county of this state for grazing purposes, he shall file with the county auditor in each county notice to that effect, giving the number and kind of livestock and the brand thereon, and the time he intends to graze such livestock in each county, and the county auditor of each county shall prorate the tax on such livestock in proportion to the amount of time the livestock shall be in each county.

§ 6.) No livestock governed by section 1 shall be removed from the state without the payment of the personal property taxes levied or to be levied against such property for the current year as herein provided. If a township, district or county officer learns or believes there is danger that such livestock which has been so assessed and against which taxes have been or will be levied will be removed from the state without payment of the taxes so levied and without leaving sufficient property to pay the whole of such taxes, he shall report such fact to the sheriff, who shall collect such taxes in the same manner as is provided in section 57-2216 of the North Dakota Revised Code of 1943. Such taxes may also be collected in the same manner as is provided in sections 57-22211 and 57-22212

of the 1953 Supplement to the North Dakota Revised Code of 1943.

§ 7.) The fact that such property may have been assessed in another state for the current year shall not prevent its assessment in this state. The provisions of section 57-0211 of the Code to the effect that all personal property shall be listed and assessed annually with reference to its value on April first of each year are inapplicable to property governed by this Act. The provisions of section 57-0217 of the Code that if a person has been assessed and can make it appear to the assessor that he has paid, or is held for the tax of the current year on the property in another state, are likewise inapplicable to property governed by this Act. The provisions of section 57-2304 of the Code allowing one of the grounds for refund or abatement to be that the property has been assessed more than once in the same year are not applicable to property governed by this Act unless such assessments have been made in this state.

Approved March 19, 1957.

CHAPTER 349

H. B. No. 825

(Lynch, at the request of the State Tax Commissioner)

PAY OF SPECIAL ASSESSORS

AN ACT

To amend and reenact subsection 2 of section 57-1408 of the North Dakota Revised Code of 1943, relating to reassessments of property and special assessors, to provide for changing the allowance for services and expenses paid to special assessors.

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

§ 1. **Amendment.)** Subsection 2 of section 57-1408 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2. The board of county commissioners then may appoint some competent citizen as a special assessor who shall make a reassessment of the property specified by the board, and who shall proceed in accordance with the provisions of law governing assessors. Such special assessor shall be allowed for his services a sum not to exceed

ten dollars per day plus, in the discretion of the board of county commissioners, mileage expense at the rate allowed by law for each mile actually and necessarily traveled in the performance of his duties, which shall be audited and allowed by the board of county commissioners and paid out of the county treasury upon warrant of the county auditor. If assessment was ordered by the tax commissioner, such commissioner shall audit and allow the bill, and the same shall be paid out of the county treasury. In either case, such compensation shall be charged to the political subdivision in which such reassessment was made and shall be deducted by the county treasurer from funds coming into his hands apportionable to such subdivision.

Approved March 13, 1957.

CHAPTER 350

S. B. No. 219
(Dewing)

STATE TAX LEVY LIMITATIONS

AN ACT

To amend and reenact section 57-1503 of the North Dakota Revised Code of 1943 relating to the state tax levy.

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

§ 1. Amendment.) Section 57-1503 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1503. State Tax Levy.) The state tax shall be levied by the state board of equalization. Such board shall determine the rate of state tax to be levied for the purposes prescribed by law, and the rate shall be based on the aggregate net assessed value of the taxable property within the state as assessed and equalized by such state board, and the levy of the tax shall be limited by the amount necessary to be raised for the purpose of meeting the appropriations made by the legislative assembly and the estimated general expenses of the state, including a sufficient amount to pay the annual interest on the public debt and to provide a sinking fund to pay and discharge the principal thereof at maturity, but the board may

add to such levy an amount sufficient to maintain a reserve of not more than twenty percent of the total appropriation from the general fund for the current biennium. The aggregate rate of levy for all state purposes, exclusive of interest on the public debt of the state, shall not exceed four mills on the dollar of the net taxable assessed valuation of all property in the state as equalized by the state board for the current year.

Approved March 12, 1957.

CHAPTER 351

S. B. No. 52
(Krause)

TEN MILL LEVY FOR COUNTY ROAD PROGRAM

AN ACT

To amend and reenact section 57-15063 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to county road programs.

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

§ 1. **Amendment.**) Section 57-15063 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-15063. County Road Program Including Farm To Market And Federal Aid; Tax Levy.) The board of county commissioners of any county in this state may prepare a proposed county construction program of farm-to-market and federal aid roads on the county road system, setting forth a general description of the roads to be constructed, the location of bridges constituting a part of the program, the approximate total mileage, and the priority of construction. After approval of such program by the department and the bureau of public roads, the board may submit such program to the electors of the county with the question of levying a tax of not to exceed ten mills upon the net taxable assessed valuation of all property in the county for the completion of such program by matching, from the proceeds of such tax, federal funds available for federal aid, secondary and feeder roads, farm-to-market roads, and all roads as provided for under Public Law 769, 81st Congress, or future federal aid highway acts of a similar

character. If the majority of the electors voting on the question approved such program and levy, annually thereafter until such program is completed the board shall levy a tax not in excess of ten mills, which levy shall not be subject to the county mill levy limitations, and the proceeds of such tax shall be used only for matching federal aid available for such program which shall be the official county road program.

Approved February 11, 1957.

CHAPTER 352

H. B. No. 638

(Baldwin, Rickford, Knudsen and Mueller)
(and Haugland)

PUBLIC LIBRARY SERVICE FOR MUNICIPALITIES OR COUNTIES

AN ACT

To amend and reenact section 57-1510 of the North Dakota Revised Code of 1943, and sections 40-3801, 40-3802, 57-1506, and 57-1508 of the 1953 Supplement to the North Dakota Revised Code of 1943, as amended, empowering the governing body of any municipality or county to establish and maintain public library service, establish a library fund and levy taxes therefor, and limiting levy for such purposes, providing an exception to limitations on municipal and county tax levies, empowering the state library commission to enter into contracts with municipalities, political subdivisions and agencies of the state of North Dakota and other states, making an appropriation and declaring an emergency.

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

§ 1. **Amendment.**) Section 40-3801 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-3801. Public Library And Reading Room: Establishment; Election.) The governing body of any municipality or county upon petition of not less than 51% of the voters of such municipality or county participating in the last general election shall have power to establish and maintain public library service within its geographic limits by means of a public library and reading room or other public library service, either singly or in cooperation with the state library commission, or with one or more municipalities or counties, or by participation in an approved state plan for rendering public

library service under The Library Services Act, Public Law 597, 84th Congress, 2d Session, and act amendatory thereof.

§ 2. Amendment.) Section 40-3802 of the 1953 Supplement to the North Dakota Revised Code of 1943 as amended by chapter 276 of the Session Laws of 1955 is hereby amended and reenacted to read as follows:

40-3802. Library Fund; Levy; Collection; Kept Separate.) For the purpose of establishing and maintaining public library service, the governing body of a municipality or county authorizing the same shall establish a library fund by annually levying and causing to be collected as other taxes are collected, a municipal or county tax not to exceed three mills on the net taxable assessed valuation of property in such municipality and not to exceed two mills on the net taxable assessed valuation of property in such county. The treasurer of the municipality or county shall keep such fund separate and apart from the other money of the county or municipality, and it shall be used exclusively for the establishment and maintenance of public library service. Whenever a tax for county library service is levied, any municipality already levying a tax for public library service under the provisions of this section, shall upon written application to the county board of such county be exempted from such county tax levy to the extent that the municipality making such application levies taxes for a library fund during the year for which such tax levy is made.

§ 3. Amendment.) Section 57-1506 of the 1953 Supplement to the North Dakota Revised Code of 1943, is hereby amended and reenacted to read as follows:

57-1506. Limitations On County Tax Levies.) County tax levies shall be limited as follows:

1. The board of county commissioners shall not levy any taxes for general or special county purposes which will exceed the amount produced by a levy of eighteen mills on the dollar of the net taxable valuation of the county;
2. The board of county commissioners annually shall levy taxes sufficient to meet the obligations of the county for the maintenance of its patients in the charitable institutions of the state, but such taxes shall not exceed the amount produced by a levy rate of one and one quarter mills on the dollar of net taxable valuation. Such levy shall be within the amount produced by the eighteen mill rate, and shall be a paramount charge, to the exclusion of all other budget items, upon the necessary part of the total tax levies; provided that any funds

now on hand or hereinafter levied for the purpose of this subsection shall not, in the discretion of the board of county commissioners, be included in the budget of the county.

3. The eighteen mill limitation shall apply to all tax levies which the county is authorized to levy for general and special county purposes, including taxes levied for road and bridge purposes. Any unexpended balance in the county road fund at the end of the fiscal year may be transferred to a special road fund, except that such special fund shall never exceed the amount a ten mill levy on the assessed valuation of the county would yield, and the balance in said fund shall not be considered in determining the budget or the amount that may be levied. Such mill limitation shall not apply:
 - a. To tax levies made for the purpose of paying the principal and interest on any obligations of the county evidenced by the issuance of bonds;
 - b. To tax levies made to pay the county tuition provided for by section 57-1524;
 - c. To taxes levied for the purpose of combating the grasshopper pest, pursuant to section 4-1501;
 - d. To taxes levied for the purpose of combating gophers pursuant to section 4-1602;
 - e. To taxes levied pursuant to any statute which expressly provides that the taxes authorized to be levied therein shall not be subject to the eighteen mill limitations for general and special county purposes;
 - f. To the tax levied pursuant to the provisions of chapter 42 of the title Education, for support and maintenance of county agricultural and training schools, up to a maximum of two and one-half mills on the assessed value in the county for such purpose. Nothing herein contained shall be construed to prevent the appropriation of money from the county general fund for the support and maintenance of county agricultural and training schools; or
 - g. To taxes levied for the purpose of establishing and maintaining a library fund for public library services.

§ 4. Amendment.) Section 57-1510 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1510. Exceptions To Tax Levy Limitations In Cities And Villages.) The tax levy limitations specified in section 57-1508 and 57-1509 shall not apply to the following items:

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

§ 5. Amendment.) Section 57-1508 of the 1953 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 one mill on the net taxable assessed valuation of property in such city, may be made for a band, and an additional levy not to exceed three mills on the net taxable assessed valuation of property in such city may be made for a public library.

§ 6.) The state library commission is hereby authorized and empowered to cooperate with, and to contract with munic-

ipalities, governmental subdivisions and agencies of the state of North Dakota and other states of the United States, in the extension of rural library services.

§ 7. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of forty-three thousand three hundred four dollars for expenses to be incurred in the further extension of rural library services under the direction and control of the state library commission during the period from the effective date of this Act to June 30, 1959. It is further provided that the appropriation herein made is to be available from the effective date of this Act to June 30, 1959.

§ 8. 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 16, 1957.

CHAPTER 353

S. B. No. 233
(Knudson, Dolan)

TAX LEVY LIMITATIONS IN PARK DISTRICTS

AN ACT

To amend and reenact subsection 3 of section 57-1512 of the North Dakota Revised Code of 1943, as amended, relating to tax levy limitations in park districts.

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

§ 1. Amendment.) Subsection 3 of section 57-1512 of the North Dakota Revised Code of 1943, as amended, is hereby amended and reenacted to read as follows:

57-1512. Tax Levy Limitations In Park Districts.) In park districts tax levies shall have the following limitations:

1. The aggregate amount levied for park district purposes, exclusive of levies to pay interest on bonded debt and levies to pay and discharge the principal thereof, and levies to pay the principal and interest on special assessments assessed and levied against park board properties by other municipalities, shall not exceed such amount

as will be produced by a levy of four mills on the dollar of the net taxable assessed valuation of the district for the current year.

2. Any park district owning and operating an airport for which no city or village levy is made, may levy an additional tax, regardless of the foregoing limitations and in addition to the levies hereinbefore provided for, of not to exceed four mills on the dollar of the net taxable assessed valuation of the district for the current year, such additional tax to be used solely for the purpose of purchasing or acquiring lands necessary for said airport, paying for land previously acquired for said airport, and for operating and maintaining the same;
3. Whenever the board of park commissioners deem it advisable to raise moneys by taxes in excess of the levy herein provided, for any purpose for which the park district is authorized to expend moneys raised by taxes, such board of park commissioners shall submit to the voters of the district the question of increasing the levy by a certain number of mills, but not to exceed ten mills, on the dollar of the net taxable assessed valuation of the district and when authorized by a majority of the qualified electors of the park district voting on the question at an election in which the question has been submitted, may increase the levy in the amount so authorized.

Approved March 15, 1957.

CHAPTER 354

H. B. No. 768
(Hofstrand, Tollefson)

TAX LEVY LIMITATIONS IN SCHOOL DISTRICTS

AN ACT

To amend and reenact section 57-1514 of the 1953 Supplement to the North Dakota Revised Code of 1943, as amended by chapter 142 of the 1955 Session Laws, relating to tax levy limitations in school districts.

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

§ 1. Amendment.) Section 57-1514 of the 1953 Supplement to the North Dakota Revised Code of 1943, as amended by

chapter 142 of the 1955 Session Laws, is hereby amended and reenacted to read as follows:

57-1514. Tax Levy Limitations In School Districts.) The aggregate amount levied by any school district, whether common, independent, or special, shall not exceed such amount as will be produced by a levy of twenty-four mills on the dollar of the net assessed valuation of the district, except that:

1. Any school district giving two years of standard high school work may levy taxes not to exceed twenty-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. Any school district maintaining a consolidated elementary school may levy taxes not to exceed twenty-seven mills on the dollar of its net taxable valuation, except that where high school work is offered by such school the limitations on the regular high school levy shall apply.

Approved March 6, 1957.

CHAPTER 355

H. B. No. 677

(Burk, Collette, Fitch, Lowe, Haugland,
(Brown, Neukircher, Harding and Vinje)

TWO MILL LEVY FOR URBAN RENEWAL

AN ACT

To amend and reenact section 57-1544 of the 1953 Supplement to the North Dakota Revised Code of 1943, authorizing cities to levy taxes for urban renewal purposes and for the purpose of acquiring real estate to be used as a site for public buildings, construction of public buildings and furnishing of same, and to provide for elections.

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

§ 1. Amendment.) Section 57-1544 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1544. City Tax Levy For Acquiring Real Estate For Public Buildings.) The governing body of any city having a population of twenty-five hundred or more may levy taxes annually, not in excess of two mills in each year, for a period not to exceed twelve successive years, for a fund which shall be used for the purpose of acquiring real estate as a site for public buildings, construction of public buildings, and the furnishing of public buildings to be constructed on such sites, or for a city's participating share in urban renewal programs. This levy shall be in addition to and not restricted by the levy limitations prescribed by law. Provided that a city shall in no case levy the aforesaid two mills for more than one period of twelve years whether under this Act or under the authority granted by section 57-1544 of the 1953 Supplement to the North Dakota Revised Code of 1943, unless the governing body of the city shall have submitted to the voters of the city according to the procedure set forth in sections 2, 3, and 4 of this Act, the question of levying a tax for the purposes authorized by this statute, not to exceed two mills on the dollar in any one year upon the assessed valuation of all property in the city. Then, if the majority of the electors voting on the question approve such levy, there shall be levied, spread and collected such tax as other taxes are collected in and for such city.

§ 2. Resolution And Notice Of Election.) The resolution and order of the governing body of the city calling an election pursuant to the provisions of this Act shall contain a general description of the precise purpose for which a tax is to be levied and collected, the maximum number of years over which such tax shall be spread, the maximum mills per annum to be levied not to exceed two mills per annum, and the time when such election shall be held. Notice of the adoption of such resolution and of the election to be held in pursuance thereof shall be published by the city auditor thirty days prior to the day of election.

§ 3. Form Of Ballot.) The form of the ballot at an election authorized by this Act shall be prepared by the city auditor and shall be substantially as follows:

Shall a levy of not to exceed two mills be made annually for a period of.....years for the purpose of?

Yes

No

There shall be inserted in the blank space in such question appropriate words describing the purpose and nature of the improvement to be undertaken.

§ 4. Conduct Of Election.) A special election upon the question of levying taxes for such purpose shall be held at a time to be set by the governing body of the city. The votes cast upon the question of the proposed tax levy shall be returned and canvassed as other votes cast at elections are returned and canvassed, and the result of such election shall be certified and spread upon the minutes of the proceedings of the governing body of the city at the next regular or special meeting thereafter.

Approved March 7, 1957.

CHAPTER 356

S. B. No. 55
(Dewing)

ACREAGE EXEMPTION OF CHURCH REALTY

AN ACT

To amend and reenact subsection 9 of section 57-0208 of the North Dakota Revised Code of 1943, relating to acreage exemption of real property owned by churches.

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

§ 1. Amendment.) Subsection 9 of section 57-0208 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

9. All real property, not exceeding two acres in extent, owned by any religious corporation or organization, upon which there is a building used for the religious services of such organization, or upon which there is a dwelling with usual outbuildings, intended and ordinarily used for the residence of the bishop, priest, rector, or other minister in charge of such services, shall be deemed to be property used exclusively for religious services, and exempt from taxation, whether such real property consists of one tract or more. All taxes assessed or levied on any such property, while the same was so used for religious purposes, are void and of no effect, and must be canceled. All personal property of any religious corporation or organization used for religious purposes is exempt from taxation.

Approved March 6, 1957.

CHAPTER 357

H. B. No. 727
(Fristad by request)

COUNTY AUDITOR'S RECORD OF DELINQUENT TAXES;
REPEAL

AN ACT

To repeal section 57-2210 of the North Dakota Revised Code of 1943 relating to county auditor's record of delinquent taxes.

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

§ 1. Repeal.) Section 57-2210 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 13, 1957.

CHAPTER 358

S. B. No. 110
(Brooks, Erickstad, Garaas, Holand)
(Knudson, Longmire, Wartner)

ESTATE TAX LIEN LIMITATION

AN ACT

To amend and reenact section 57-3723 of the North Dakota Revised Code of 1943, relating to liens for estate tax and limiting such liens to a period of ten years from the date of death of the decedent; and providing for an effective date.

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

§ 1. Amendment.) Section 57-3723 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3723. Lien For Taxes.) Any taxes imposed by this chapter shall be and shall remain a lien upon the property transferred, and upon all property acquired by the executor, administrator, or trustee in substitution therefor, for a period of ten years from the date of death of the decedent or until the taxes are paid or a bond is given for their payment, whichever occurs first, but such lien shall not affect any tangible or

intangible personal property after it has passed to a bona fide purchaser for value; except that nothing herein contained shall give the owner of any securities the right to have the same transferred to him by the corporation, association, company, or trust issuing the same, until a permit from the county court shall have been filed. The lien charged upon any real estate or separate parcel thereof may be discharged by the payment of all taxes due and to become due on said real estate or separate parcel, or by the filing and acceptance of a bond for their payment, or by an order of the county court transferring such lien to other real estate owned by the person to whom said real estate or any separate parcel thereof passes. The beneficiary shall be personally liable for the tax on such real estate, as well as the executor, administrator, or trustee, and if the executor, administrator, or trustee pays such tax, he, unless the same is made an expense of administration by the will or other instrument shall have the right to recover such tax or any other tax from the beneficiary acquiring such real estate. In case of a resident decedent, beneficiaries shall share the burden of the tax in proportion to benefits received, unless otherwise provided by will. If a resident decedent leaves property outside of this state, beneficiaries shall share the aggregate burden of the estate tax payable in this state and transfer taxes payable in other states in proportion to aggregate benefits received here and elsewhere, unless otherwise provided by will. If a nonresident decedent leaves property in this state, the entire tax imposed by this state shall be enforceable against any property of the estate, but the court, in its discretion, may make such order or orders as may be best calculated to distribute the aggregate burden equitably in proportion to benefits received. Any unpaid taxes imposed by this chapter prior to the effective date of this Act shall be and remain a lien upon the property transferred, and upon all property acquired by the executor, administrator, or trustee in substitution therefor, for a period of ten years from the date of death of the decedent or one year after the effective date of this Act, whichever event is the latest in the point of of time.

Approved March 2, 1957.

CHAPTER 359

H. B. No. 670

(Lynch)

TAXATION OF CERTAIN BACK PAY INCOME

AN ACT

To permit taxation under chapter 57-38 of the North Dakota Revised Code of 1943, as amended, of certain back pay income in the year received or accrued at an amount not greater than that at which it would have been taxed had it been includible and included in the gross income of the taxpayer in the year to which attributable.

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

§ 1. Income From Back Pay; Limitation On Tax; Definition.) If the amount of back pay received or accrued by an individual during the income year exceeds fifteen percent of the gross income of the individual for such year, the part of the income tax assessed pursuant to chapter 57-38 of the North Dakota Revised Code of 1943 as amended which is attributable to the inclusion of such back pay in gross income for the income year shall not be greater than the aggregate of the increases in the taxes which would have resulted from the inclusion of the respective portions of such back pay in gross income for the income years to which such portions are respectively attributable, as determined under regulations prescribed by the state tax commissioner.

For purposes of this Act, the term "back pay" means amounts includible in gross income pursuant to chapter 57-38 of the North Dakota Revised Code of 1943 as amended which are one of the following:

1. Remuneration, including wages, salaries, retirement pay, and other similar compensation, which is received or accrued during the income year by an employee for services performed before the income year for his employer and which would have been paid before the income year except for the intervention of one of the following events:
 - a. bankruptcy or receivership of the employer;
 - b. dispute as to the liability of the employer to pay such remuneration, which is determined after the commencement of court proceedings;
 - c. if the employer is the United States, a state, a territory, or any political subdivision thereof, or the Dis-

- district of Columbia, or any agency or instrumentality of any of the foregoing, lack of funds appropriated to pay such remuneration; or
- d. any other event determined to be similar in nature under regulations prescribed by the state tax commissioner.
2. Wages or salaries which are received or accrued during the income year by an employee for services performed before the income year for his employer and which constitute retroactive wage or salary increases ordered, recommended, or approved by any federal or state agency, and made retroactive to any period before the income year.
 3. Payments which are received or accrued during the income year as the result of an alleged violation by an employer of any state or federal law relating to labor standards or practices, and which are determined under regulations prescribed by the state tax commissioner to be attributable to a prior income year.

Approved March 16, 1957.

CHAPTER 360

H. B. No. 713

(Lynch, at the request of the State Tax Commissioner)

ALLOCATION OF GROSS INCOME; CREDITS

AN ACT

To amend and reenact subsections 1, 3, 4, and 5 of section 57-3804 of the North Dakota Revised Code of 1943; to amend and reenact subsection 2 of section 57-3804 of the 1953 Supplement to the North Dakota Revised Code of 1943; to create and enact a new subsection 6 and renumber subsection 6 and 7 of section 57-3804 of the North Dakota Revised Code of 1943; all of which relate to allocation and apportionment of gross income of individuals and subsections 2 and 6 of which also permit a credit under certain conditions for income taxes paid to another state or foreign country.

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

§ 1. Amendment.) Subsection 1 of section 57-3804 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. Income from personal or professional services performed in this state by individuals shall be assigned to this state regardless of the residence of the recipients of such income;

§ 2. Amendment.) Subsection 2 of section 57-3804 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2. Income received from personal or professional services performed by residents of this state, regardless of where such services are performed, and income received by residents of this state from intangible personal property shall be assigned to this state. If a tax is paid to another state or a foreign country on any income assigned to this state under this subsection, a credit for any tax so paid may be deducted from the tax assessed under this chapter if written proof of such payment is furnished to the tax commissioner; provided, that this deduction for such tax shall not exceed the amount of tax assessed under this chapter against the same income;

§ 3. Amendment.) Subsection 3 of section 57-3804 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

3. Income and gains received from tangible property not employed in the business and from tangible property employed in the business of the taxpayer, if such business consists principally of the holding of such property and collection of income and gains therefrom, shall be assigned to this state without regard to the residence of the recipient if such property has a situs within this state;

§ 4. Amendment.) Subsection 4 of section 57-3804 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4. Income derived from carrying on a trade or business by individuals shall be assigned to this state without regard to the residence of the recipients if the trade or business is conducted wholly within this state;

§ 5. Amendment.) Subsection 5 of section 57-3804 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

5. Whenever a trade or business is carried on partly within and partly without this state by a nonresident of this state, the entire income therefrom shall be allocated to this state and to other states, according to the provisions of sections 57-3812, 57-3813, and 57-3814, provid-

ing for allocation and apportionment of income of corporations doing business within and without this state;

§ 6. Amendment.) Subsection 6 of section 57-3804 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

6. a. Income and gains received by a resident of this state from tangible property not employed in the business and from tangible property employed in the business of the taxpayer, if such business consists principally of the holding of such property and the collection of income and gains therefrom, shall be assigned to this state without regard to the situs of such property.
- b. Income derived from carrying on a trade or business by residents of this state shall be assigned to this state without regard to where such trade or business is conducted.

If a tax is paid to another state or a foreign country on any income assigned to this state under this subsection, a credit for any tax so paid may be deducted from the tax assessed under this chapter if written proof of such payment is furnished to the tax commissioner; provided, that this deduction for such tax shall not exceed the amount of tax assessed under this chapter against the same income;

§ 7. Amendment.) Subsection 6 of section 57-3804 of the North Dakota Revised Code of 1943 is hereby renumbered as subsection 7 and reenacted to read as follows:

7. All other items of gross income shall be assigned to the taxpayer's domicile;

§ 8. Amendment.) Subsection 7 of section 57-3804 of the North Dakota Revised Code of 1943 is hereby renumbered as subsection 8 and reenacted to read as follows:

8. The privileges granted nonresidents shall apply only where other states grant to the residents of North Dakota the same privilege.

§ 9. This Act shall apply to every income year beginning after December 31, 1956.

Approved March 13, 1957.

CHAPTER 361

H. B. No. 826

(Lynch)

(At the request of the State Tax Commissioner)

ALLOCATION OF INCOME OF CORPORATIONS

AN ACT

To amend and reenact subsections 4, 5, and 6 of section 57-3813 of the North Dakota Revised Code of 1943 relating to allocation of income of corporations doing business within and without North Dakota.

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

§ 1. **Amendment.**) Subsections 4, 5, and 6 of section 57-3813 of the North Dakota Revised Code of 1943 are hereby amended and reenacted to read as follows:

4. For the purposes of section 57-3812, payments of wages, salaries and other compensation shall be assigned to the state in which the services therefor are performed;
5. Payments for purchases shall be assigned to the state in which tangible property purchased is intended to be used or resold by the corporation;
6. Receipts from sales, and other sources, shall be assigned to the office, agency, or place of business of the corporation at or from which the transactions giving rise to such receipts are chiefly handled and attended to with respect to the negotiation and execution; provided that in any case in which the tangible property is located in North Dakota at the time of delivery to the buyer, or to a carrier or other bailee for delivery to the buyer, the receipts from such sale shall be assigned to North Dakota.

§ 2.) This Act shall apply to every income year beginning after December 31, 1956.

Approved March 19, 1957.

CHAPTER 362

H. B. No. 710
(Currie)

GROSS INCOME; DEFINITION AND DEDUCTIONS

AN ACT

To amend and reenact section 57-3817 of the North Dakota Revised Code of 1943 relating to the definition of gross income by creating and enacting subsection 5 to provide that gross income shall include amounts received as alimony, separate maintenance, or support, and to amend and reenact section 57-3822 of the North Dakota Revised Code of 1943 relating to deductions from gross income by creating and enacting subsection 13 to provide that deductions from gross income shall include payments made as alimony, separate maintenance, or support.

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

§ 1. Amendment.) Section 57-3817 of the North Dakota Revised Code of 1943 is hereby amended by creating and enacting subsection 5 to read as follows:

5. a. Amounts received as periodic payments for alimony or separate maintenance pursuant to the terms of a decree of divorce or separation or pursuant to a written instrument incident to such a decree; amounts received as periodic payments pursuant to a written separation agreement made because of the marital or family relationship, provided the husband and wife are separated; and amounts received as periodic payments under a decree for support of a spouse, provided the husband and wife are separated.
- b. This subsection shall not apply to that part of any payment which the terms of the decree, instrument, or agreement fix, in terms of an amount of money or a part of the payment, as a sum which is payable for the support of minor children of the spouse making the payments. For purposes of the preceding sentence, if any payment is less than the amount specified in the decree, instrument, or agreement, then so much of such payment as does not exceed the sum payable for support shall be considered a payment for such support.
- c. Installment payments discharging a part of an obligation the principal sum of which is, either in terms of money or property, specified in the decree, instrument, or agreement shall not be treated as periodic

payments for purposes of this subsection, unless such principal sum is to be paid or may be paid over a period ending more than ten years from the date of such decree, instrument, or agreement, and then only to the extent of ten percent of the principal sum. For purposes of the preceding sentence, the part of any principal sum which is allocable to a period after the income year of the recipient in which it is received shall be treated as an installment payment for the income year in which it is received.

§ 2. Amendment.) Section 57-3822 of the North Dakota Revised Code of 1943 is hereby amended by creating and enacting subsection 13 to read as follows:

13. a. The amount of periodic payments made for alimony or separate maintenance pursuant to the terms of a decree of divorce or separation or pursuant to a written instrument incident to such a decree; the amount of periodic payments made pursuant to a written separation agreement made because of the marital or family relationship, provided the husband and wife are separated; and the amount of periodic payments made under a decree for support of a spouse, provided the husband and wife are separated.
- b. This subsection shall not apply to that part of any payment which the terms of the decree, instrument, or agreement fix, in terms of an amount of money or a part of the payment, as a sum which is payable for the support of minor children of the spouse making the payments. For purposes of the preceding sentence, if any payment is less than the amount specified in the decree, instrument, or agreement, then so much of such payment as does not exceed the sum payable for support shall be considered a payment for such support.
- c. Installment payments discharging a part of an obligation the principal sum of which is, either in terms of money or property, specified in the decree, instrument, or agreement shall not be treated as periodic payments for purposes of this subsection, unless such principal sum is to be paid or may be paid over a period ending more than ten years from the date of such decree, instrument, or agreement, and then only to the extent of ten percent of the principal sum. For purposes of the preceding sentence, the part of any principal sum which is allocable to a period after the income year of the obligor in which it is paid shall

be treated as an installment payment for the income year in which it is paid.

§ 3.) This Act shall apply to every income year beginning December 31, 1956.

Approved March 13, 1957.

CHAPTER 363

H. B. No. 714

(Lynch)

(At the request of the State Tax Commissioner)

INCOME TAX DEDUCTIONS

AN ACT

To amend and reenact subsection 4 of section 57-3817 of the North Dakota Revised Code of 1943 relating to the definition of gross income, and to amend and reenact subsection 6 of section 57-3822 of the 1953 Supplement to the North Dakota Revised Code of 1943, as amended by chapter 325 of the 1955 Session Laws, relating to various deductions from gross income including deduction of an allowance for depletion and requiring the restoration of such deduction to gross income under certain conditions.

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

§ 1. **Amendment.**) Subsection 4 of section 57-3817 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4. All other gains, profits, and income which the state may tax constitutionally, including any deduction of an allowance for depletion which must be restored to gross income under the conditions provided in subsection 6 of section 57-3822.

§ 2. **Amendment.**) Subsection 6 of section 57-3822 of the 1953 Supplement to the North Dakota Revised Code of 1943, as amended by chapter 325 of the 1955 Session Laws, 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 the 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.

- a. 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;
- b. In the case of lignite coal mines, the taxpayer shall have the option to accept an allowance for depletion of ten per centum of the gross income from each property during the taxable year in lieu of other bases of depletion. If the option to accept the ten 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. The provisions of this subdivision shall apply to all income years beginning after December 31, 1954.

- c. In the case of brick and tile clay deposits and clay mined for processing into commercially marketable products, the taxpayer shall have the option to accept an allowance for depletion of five per centum of the gross income from each property during the taxable year in lieu of other bases of depletion. If the option to accept the five 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. For the purpose of this subsection the term "gross income from property" means the gross income from the mining of the natural deposits of clay and such mining includes the processing applied to the extracted clay to obtain the commercially marketable brick, tile or other product or products. The provisions of this subdivision shall apply to all income years beginning after December 31, 1956.

In any case where a taxpayer has deducted an allowance for depletion from gross income pursuant to this subsection with respect to lease bonuses, advance royalties or other payments received from the grant of rights in mineral property in anticipation of production of minerals therefrom, and no production is had during the term such grant was in effect, the taxpayer shall restore the depletion deduction to gross income in the year in which the rights under such grant are terminated; provided, that to the extent the deduction for such depletion did not result in an income tax advantage under this chapter to the taxpayer, such deduction need not be restored to income; provided further, that the provisions of this paragraph shall apply retroactively and shall not be affected by any time limitation provided in section 57-3838.

Approved March 19, 1957.

CHAPTER 364

H. B. No. 671

(Lynch)

(At the request of the State Tax Commissioner)

DEDUCTIONS FROM GROSS INCOME

AN ACT

To amend and reenact for purposes of clarification subsection 3 of section 57-3822 of the 1953 Supplement to the North Dakota Revised Code of 1943 relating to deduction of taxes from gross income.

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

§ 1. Amendment.) Subsection 3 of section 57-3822 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted for purposes of clarification 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 if a husband and wife who file a joint federal return file separate income tax returns under this chapter only that part of the allowable federal income taxes which is proportionate to the separate gross incomes of each as shown on the North Dakota returns shall be deductible under this subsection. State income taxes are not deductible.

Approved March 19, 1957.

CHAPTER 365

S. B. No. 287
(Longmire)

INCOME TAX EXEMPTIONS FOR INDIVIDUALS; BLIND

AN ACT

To amend and reenact section 57-3826 of the 1953 Supplement to the North Dakota Revised Code of 1943 relating to income tax exemptions.

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

§ 1. Amendment.) Section 57-3826 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3826. Exemption For Individuals.) For the purpose of the tax on individuals, there shall be deducted from the net income, the following exemptions:

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;
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.
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.
- i. An individual who, for the income year of the taxpayer, has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household.
- j. An individual who
 - (1) is a descendant of a brother or sister of the father or mother of the taxpayer,
 - (2) for the income year of the taxpayer receives institutional care required by reason of a physical or mental disability, and
 - (3) before receiving such institutional care, was a member of the same household as 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. This Act shall apply to every income year beginning after December 31, 1952.

Head Of Household. If the taxpayer would not occupy the status of head of 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.

- 4. An additional exemption of six hundred dollars for the taxpayer if he is blind at the close of his income year;

5. An additional exemption of six hundred dollars for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the income year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For purposes of this subsection, the determination of whether the spouse is blind shall be made as of the close of the income year of the taxpayer; except that if the spouse dies during such income year such determination shall be made as of the time of such death.
6. For the purposes of this section, an individual is blind only if his central visual acuity does not exceed 20/200 in his better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

Approved March 15, 1957.

CHAPTER 366

H. B. No. 673

(Lynch)

(At the request of the State Tax Commissioner)

FILING TAX RETURNS; INTEREST

AN ACT

To amend and reenact section 57-3834 of the 1953 Supplement to the North Dakota Revised Code of 1943 relating to the time and place of filing returns and to the payment of interest when an extension of time for filing a return is granted.

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

§ 1. **Amendment.**) Section 57-3834 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3834. Time And Place Of Filing Returns; Interest On Tax When Time For Filing Is Extended.) 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 fourth 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 return when, in his judgment, good cause exists. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest on the tax at the rate of six percent per annum from the date the tax would have been due if the extension had not been granted to the date the tax is paid. 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.

Approved March 20, 1957.

CHAPTER 367

S. B. No. 297
(Meidinger and Saumur)

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 of title or possession, 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, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property and the sale of steam, gas, electricity, water, and communication service to retail consumers or users, and includes the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer. By the term "processing" is meant 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, including leasing or renting, tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, electricity, water and communication services, and tickets or admission to places of amusement and athletic events as provided in this 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 of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided; and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in manner provided in this 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, 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. "Gross receipts" shall also mean, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only such tangible personal property the transfer of title to which has not been subjected to a retail sales tax in this state;
7. "Relief agency" means the state, any county, city and county, city or district thereof, or an agency engaged in actual relief work;
8. "Commissioner" means the tax commissioner of the state of North Dakota; and
9. "Local governmental unit" means incorporated cities, towns and villages, counties, school districts and townships.

§ 2. Tax Imposed.) There is hereby imposed, beginning the first day of July, 1957 and ending the 1st day of July, 1959 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 of 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 corporation;
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 cred-

ited 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 or 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 the retailer until paid, and shall be recoverable at law in the same manner as other debts.

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

\$0.01 to \$0.24.....	no tax
.25 to .74.....	1¢ tax
.75 to 1.24.....	2¢ tax
1.25 to 1.74.....	3¢ tax
1.75 to 2.24.....	4¢ tax
2.25 to 2.74.....	5¢ tax
2.75 to 3.24.....	6¢ tax
3.25 to 3.74.....	7¢ tax
3.75 to 4.24.....	8¢ tax
4.25 to 4.74.....	9¢ tax
4.75 to 5.24.....	10¢ tax
5.25 to 5.74.....	11¢ tax
5.75 to 6.24.....	12¢ tax
6.25 to 6.74.....	13¢ tax
6.75 to 7.24.....	14¢ tax
7.25 to 7.74.....	15¢ tax
7.75 to 8.24.....	16¢ tax
8.25 to 8.74.....	17¢ tax
8.75 to 9.24.....	18¢ tax
9.25 to 9.74.....	19¢ tax
9.75 to 10.24.....	20¢ tax
Each additional 50¢.....	1¢ 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 last day of the month following the close of the first quarterly period as defined in the following section, and on or before the last day of the month following each subsequent quarterly period of three months, the retailer shall make out a return for the preceding quarterly period in such form and manner as may be prescribed by the commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further in-

formation 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 Of 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 last day of the month next succeeding each quarterly period, the first of such periods being the period commencing with July 1, 1957;
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; provided that the register of deeds shall accept any such lien for filing and recording when it is received whether or not the filing and recording fees are paid at that time.

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 the 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 therein. 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 pur-

chase 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 hereinbefore 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 to 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 proceed-

ings 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; 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 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 he may designate to give bond for the faithful performance of the duties in such sum and such sureties as he 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 his 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 sources of income, profits, losses, expenditures or any particulars thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract of particulars thereof to be seen or examined by any person except as provided by law. The commissioner may authorize examination of such returns by other state officers, 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 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 or for other educational purposes specifically authorized by the legislature. The remaining five-twelfths of said trust fund shall be used and disbursed only for the payment of appropriations to be expended by public welfare board for the purpose authorized by law or for other welfare purposes specifically authorized by the legislature; 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 330 of the Session Laws of 1955 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 18, 1957.

CHAPTER 368

S. B. No. 73

(Baeverstad, Meidinger, Knudson, Vendsel, Tuff and Leier)

OIL AND GAS GROSS PRODUCTION TAX

AN ACT

To amend and reenact section 57-5102 and subsection 1 of section 57-5115 of the 1953 Supplement to the North Dakota Revised Code of 1943 relating to a tax upon the production of oil and gas in this state.

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

§ 1. Amendment.) Section 57-5102 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-5102. Gross Production Tax.) A tax of five 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.

§ 2. Amendment.) Subsection 1 of section 57-5115 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. First an amount equal to one percent of the gross value at the well of the oil and gas upon which a tax is collected under this chapter shall be deposited with the state treasurer, who shall credit it to the general fund.

Approved March 13, 1957.