

# TAXATION

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## CHAPTER 532

SENATE BILL NO. 2417  
(Butler)

### COLLECTION OF DELINQUENT TAXES

AN ACT to provide for the collection of delinquent sales, use, income and business and corporation privilege taxes from taxpayers not residing in this state; providing for tax commissioner to contract with collection and credit agencies; providing for a bond, and providing for payment of fees.

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

SECTION 1. COLLECTION OF DELINQUENT SALES, USE, INCOME AND BUSINESS AND CORPORATION PRIVILEGE TAXES.)

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

2. a. Fees for services, reimbursement or any other remuneration to such collection or credit agency shall be based on the amount of tax, penalty and interest actually collected. Each contract entered into between the tax commissioner and the collection or credit agency shall provide for the payment of fees for such services, reimbursements or other remunerations not in excess of fifty percent of the amount of delinquent sales, use, income or business and corporation privilege tax, including penalties and interest actually collected.

- b. All funds collected, less the fees for collection services, as provided in the contract, must be remitted to the tax commissioner within ten days from the date of collection from a taxpayer. Forms to be used for such remittances shall be prescribed by the tax commissioner.
- c. Before entering into such a contract, the tax commissioner shall require a bond from the collection or credit agency not in excess of ten thousand dollars, guaranteeing compliance with the terms of the contract.

3. A collection or credit agency entering into a contract with the tax commissioner for the collection of delinquent taxes pursuant to this Act thereby agrees that it is doing business in this state for the purposes of the North Dakota income tax and business and corporation privilege tax laws.

Approved March 11, 1971

## CHAPTER 533

HOUSE BILL NO. 1057  
(Backes, Dornacker, Gackle, L. Larson, Weber)  
(From Legislative Council Study)

DEFINITION OF FARM  
FOR EXEMPTION PURPOSES

AN ACT to amend and reenact subsection 10 of section 57-02-01 and subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the definition of a farm, and to exceptions to the property tax exemption for farm structures and improvements on agricultural lands.

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

SECTION 1. AMENDMENT.) Subsection 10 of section 57-02-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. There shall be a presumption that a unit of land is not a farm unless such unit contains a minimum of ten acres, and the taxing authority, in determining whether such presumption shall apply, shall consider such things as the present use, the adaptability to use, and how similar type properties in the immediate area are classified for tax purposes.

SECTION 2. AMENDMENT.) Subsection 15 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15. All farm structures, and improvements located on agricultural lands. This subsection shall be construed to exempt farm buildings and improvements only, and shall not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence. Any structure or structures used in connection with a retail or wholesale business other than farming, even though situated on agricultural land, shall not be exempt under this subsection;

Approved March 27, 1971

## CHAPTER 534

SENATE BILL NO. 2045  
(Butler, Jacobson, Rait, Wilhite)  
(From Legislative Council Study)

DEFINITIONS OF  
REAL AND PERSONAL PROPERTY

AN ACT to create and enact section 57-02-05.1 of the North Dakota Century Code, relating to the definition of personal property; to amend and reenact section 57-02-04 of the North Dakota Century Code, relating to the definition of real property; to amend and reenact subsection 25 of section 57-02-08 of the North Dakota Century Code, relating to the exemption of personal property from taxation; and to repeal section 57-02-05 of the North Dakota Century Code, relating to the definition of personal property, and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 57-02-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-04. "REAL PROPERTY" DEFINED.) Real property, for the purpose of taxation, includes:

1. The land itself, whether laid out in town lots or otherwise, and improvements to the land, such as ditching, surfacing, and leveling, except plowing and trees, and all rights and privileges thereto belonging or in anywise appertaining, and all mines, minerals, and quarries in and under the same and shall expressly include all such improvements made by persons to lands held by them under the laws of the United States, all such improvements to land the title to which still is vested in any railroad company and which is not used exclusively for railroad purposes, and improvements to land belonging to any other corporation whose property is not subject to the same mode and rule of taxation as other property.
2. All structures and buildings, including systems for the heating, air conditioning, ventilating, sanitation, lighting, and plumbing of such structures and buildings, and all rights and privileges thereto belonging or in anywise appertaining, but shall not include items

which pertain to the use of such structures and buildings, such as machinery or equipment used for trade or manufacture which are not constructed as an integral part of and are not essential for the support of such structures or buildings, and which are removable without materially limiting or restricting the use of such structures or buildings.

3. Machinery and equipment, but not including small tools and office equipment, used or intended for use in any process of refining products from -
  - a. oil or gas extracted from the earth, but not including such equipment or appurtenances located on leased oil and gas production sites,
  - b. sugar beets.

SECTION 2.) Section 57-02-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-02-05.1. "PERSONAL PROPERTY" DEFINED.) Personal property, for the purpose of taxation, shall include all property that is not included within the definition of real property.

SECTION 3. AMENDMENT.) Subsection 25 of section 57-02-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \* 25. All personal property not required by section 179 of the constitution of North Dakota to be assessed by the state board of equalization shall become exempt from assessment and taxation in the year 1970 and such property shall not be assessed or taxed for that year or for any year thereafter; provided that this provision shall not apply to any property that is either subjected to a tax which is imposed in lieu of ad valorem taxes or to any particular kind or class of personal property, including mobile homes or house trailers, that is subjected to a tax imposed pursuant to any other provision of law except as specifically provided in this subsection. In addition, this subsection shall not exempt from taxation the personal property of any corporation organized pursuant to the nonprofit laws of any jurisdiction which is not exempt from personal property taxation under any other statute.

SECTION 4. REPEAL.) Section 57-02-05 of the North Dakota Century Code is hereby repealed.

SECTION 5. 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 29, 1971

\*NOTE: Subsection 25 of section 57-02-08 was also amended by section 1 of House Bill No. 1185, chapter 536.

## CHAPTER 535

SENATE BILL NO. 2149  
(Litten, Lips)

TAX EXEMPTION FOR  
PARKING FACILITIES

AN ACT to amend and reenact subsection 23 of section 57-02-08 of the North Dakota Century Code, relating to property exempt from taxation as pertains to parking structures.

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

SECTION 1. AMENDMENT.) Subsection 23 of section 57-02-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23. All, or any portion of structural improvements other than paving and surfacing to land used exclusively for the business of operating an automobile parking lot within a city open for general public patronage. Where a portion of the structure is exempt from taxation as being open for general public patronage, the amount of such exemption shall be computed by determining the value of the public parking area in proportion to the total value of the structure.

Approved March 3, 1971

## CHAPTER 536

HOUSE BILL NO. 1185  
(Dornacker)

## TAX PROCEDURES AND DEFINITIONS

AN ACT to amend and reenact subsection 25 of section 57-02-08 of the North Dakota Century Code, relating to personal property tax exemptions; subsection 3 of section 57-37-02 and subsection 2 of section 57-37-07 of the North Dakota Century Code, relating to the gross estate for estate tax purposes, adoption of internal revenue definition of powers of appointment for estate tax purposes and declaring an emergency; subsection 2 of section 57-39.2-18 of the North Dakota Century Code, relating to penalties for sales tax purposes; section 57-39.2-23 of the North Dakota Century Code, relating to confidential information for sales tax purposes; section 57-46-01.1 of the North Dakota Century Code, relating to extension of time for filing income tax returns and payment of income tax by certain members of the armed forces and merchant marine; section 57-52-10 of the North Dakota Century Code, relating to special fuels tax returns; subsection 8 of section 57-54.1-03 of the North Dakota Century Code, relating to the definition of "Importer for use" for importers for use tax purposes and section 57-54.1-15 of the North Dakota Century Code, relating to refunds of importers for use tax.

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

SECTION 1. AMENDMENT.) Subsection 25 of section 57-02-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \* 25. All personal property not required by section 179 of the constitution of North Dakota to be assessed by the state board of equalization shall become exempt from assessment and taxation in the year 1970 and such property shall not be assessed or taxed for that year or for any year thereafter; provided that this provision shall not apply to any property that is either subjected to a tax which is imposed in lieu of ad valorem taxes or to any particular kind or class of personal property, including mobile homes or house trailers, that is subjected to a tax imposed pursuant to any other provision of law except as specifically provided in this subsection. In addition, this

\*NOTE: Subsection 25 of section 57-02-08 was also amended by section 3 of Senate Bill No. 2045, chapter 534.

subsection shall not exempt from taxation the personal property of any corporation organized pursuant to the North Dakota Nonprofit Corporation Act or the personal property of any corporation organized pursuant to the nonprofit corporation laws of any other state which is not exempt from personal property taxation under any other statute nor shall it exempt from assessment and taxation fixtures, buildings, and improvements upon land which are now assessed as real estate.

SECTION 2. AMENDMENT.) Subsection 3 of section 57-37-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. All intangible personal property wherever located, except that the value of an annuity or other payment receivable by any beneficiary by reason of surviving the decedent under any form of contract or agreement other than as insurance under policies on the life of the decedent shall be included in the gross estate of any decedent dying after June 30, 1967, only to the extent that it is or would be includable for federal estate tax purposes pursuant to the provisions of section 2039 of the United States Internal Revenue Code of 1954, as amended, through December 31, 1970, effective for a decedent dying on or after January 1, 1971;

SECTION 3. AMENDMENT.) Subsection 2 of section 57-37-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. For the purposes of this section, the term "United States Internal Revenue Code of 1954, as amended" means the United States Internal Revenue Code of 1954 as amended to and including December 31, 1970, effective for a decedent dying on or after January 1, 1971.

SECTION 4. AMENDMENT.) Subsection 2 of section 57-39.2-18 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 permit shall have been revoked, or without procuring a permit within sixty days after the effective date of this chapter, as provided in section 57-39.2-14, or who shall violate the provisions of section 57-39.2-09, 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.

SECTION 5. AMENDMENT.) Section 57-39.2-23 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-23. INFORMATION DEEMED CONFIDENTIAL - PENALTY.) It shall be unlawful for the commissioner, or any person having an administrative duty under this chapter, to divulge, or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation 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.

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

SECTION 6. AMENDMENT.) Section 57-46-01.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-46-01.1. EXTENSION OF TIME FOR FILING INCOME TAX RETURNS AND PAYMENT OF INCOME TAX.) A taxpayer actively serving in the armed forces or merchant marine, outside the boundaries of the United States, may defer the filing of an income tax return and the payment of income tax until:

1. The fifteenth day of the third month after his return to the United States; or
2. The fifteenth day of the third month after his discharge from the military service or the United States merchant marine, if he remains,

after discharge, outside the boundaries of the United States; or

3. The fifteenth day of the third month after an administrator or executor has been appointed for the estate of the taxpayer; or
4. December 31, 1974, whichever of said dates shall first occur.

SECTION 7. AMENDMENT.) Section 57-52-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-10. MONTHLY RETURNS AND PAYMENTS.) For the purpose of determining the amount of his liability for the tax herein imposed each special fuel dealer shall file with the state tax commissioner on forms prescribed by the tax commissioner, a monthly tax return. Such returns shall contain a written declaration that they are made and subscribed under the penalties of perjury. The return shall show, with reference to each location at which special fuel is sold, delivered or placed by such dealer, such information as the state tax commissioner may reasonably require for the proper administration and enforcement of this chapter. The special fuel dealer shall file such return on or before the twenty-fifth day of the next succeeding calendar month following the monthly period to which it relates. Such reports shall be considered filed on time if mailed in an envelope properly addressed to the state tax commissioner and postmarked before midnight of the final filing date. The state tax commissioner may, for good cause, grant a taxpayer a reasonable extension of time for filing such returns. The tax imposed by this chapter shall be computed by each special fuel dealer by multiplying the rate of tax per gallon provided in this chapter by the number of gallons of special fuel sold or delivered by him to special fuel users. The monthly tax return shall be accompanied by remittance covering the tax due hereunder on special fuels sold or delivered to special fuel users during the preceding month.

SECTION 8. AMENDMENT.) Subsection 8 of section 57-54.1-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "Importer for use" means any person importing motor fuel into this state in the fuel supply tank or tanks of any motor vehicle. In the case of motor vehicles that are leased or rented, the importer for use means the lessee or renter unless the commissioner has designated the lessor, renter or some other person as the importer for use.

SECTION 9. AMENDMENT.) Section 57-54.1-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-15. ADMINISTRATION, RECORDS, REFUNDS, PENALTIES AND DISPOSITION OF FUNDS.) Importer for use tax shall be reported, paid, collected, refunded, and administered and importers for use shall be subject to the same penal provisions, and importer for use tax collection shall be distributed all as provided in the fuels tax chapter, sections 57-52-09 to 57-52-20, inclusive, and refund motor fuel tax and motor vehicle fuel tax chapters, sections 57-50-02, 57-50-03, 57-50-04 and 57-54-11 to 57-54-23.

SECTION 10. EMERGENCY.) The amendments to subsection 3 of section 57-37-02 and subsection 2 of section 57-37-07 of the 1969 Supplement to the North Dakota Century Code, are hereby declared to be emergency measures and shall be in full force and effect from and after their passage and approval.

Approved March 31, 1971

## CHAPTER 537

SENATE BILL NO. 2154  
(Lips, Rait)

ANNUAL ASSESSMENT OF  
REAL PROPERTY

AN ACT to amend and reenact section 57-02-11 of the North Dakota Century Code, to permit an annual assessment of real property.

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

SECTION 1. AMENDMENT.) Section 57-02-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-11. LISTING OF PROPERTY - ASSESSMENT THEREOF.)  
Property shall be listed and assessed as follows:

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

- real property that may have become subject to taxation since the last previous assessment, and all buildings or other structures of any kind, whether completed or in process of completion, and improvements on any structures of over one hundred dollars in value, the value of which has not been previously added to nor included in the valuation of the land or lots on which they have been erected, except farm buildings now exempt from taxation.
4. Whenever after the first day of April and before the first day of June in any year, it is made to appear to the assessor by the oath of the owner that any building, structure, or other improvement, or tangible personal property, which is listed for taxation for the current year has been destroyed or injured by fire, flood, or tornado, he shall investigate the matter and deduct from the valuation of the property of the owner of such destroyed property an amount which in his judgment fairly represents such deduction as should be made. No deduction shall be made on account of damages covered by insurance or damages amounting to less than one hundred dollars.
  5. In case of an abatement by the board of county commissioners and tax commissioner, or by the judgment of a court of competent jurisdiction, of the valuation of any parcel of real estate as assessed in any odd-numbered year, the valuation after such abatement shall be the assessed valuation in the even-numbered year next following, except as herein otherwise provided.
  6. Notwithstanding the other provisions of this section, the governing body of any city may by resolution provide that all real property within the city shall be listed and assessed annually with reference to its value on April first of each year. The assessments of real property assessed annually shall be equalized and corrected annually in the manner and subject to the same requirements as are provided for equalizing the assessments of real property that is listed and assessed every odd-numbered year.

Approved March 30, 1971

## CHAPTER 538

HOUSE BILL NO. 1312  
(Jenkins)

ASSESSMENT AND TAXATION  
OF LIVESTOCK

AN ACT to repeal sections 57-02-18, 57-02-18.1, 57-02-18.2, 57-02-18.3, 57-02-18.4, 57-02-18.5, 57-02-18.6, and 57-02-18.7 of the North Dakota Century Code, relating to the assessment and taxation of livestock.

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

SECTION 1. REPEAL.) Sections 57-02-18, 57-02-18.1, 57-02-18.2, 57-02-18.3, 57-02-18.4, 57-02-18.5, 57-02-18.6, and 57-02-18.7 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1971

## CHAPTER 539

SENATE BILL NO. 2291  
(Rait, Lips)

## TIME OF ASSESSMENT

AN ACT to amend and reenact section 57-02-34 of the North Dakota Century Code to change the time for the assessor to make the assessment.

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

SECTION 1. AMENDMENT.) Section 57-02-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-34. WHEN AND HOW ASSESSMENT MADE.) The assessor shall perform the duties required of him during the twelve month period prior to June first and in the following manner:

1. He shall determine the true and full value of each tract or lot of real property listed for taxation, and shall enter the value thereof in one column, and the value of all improvements and structures taxable thereon in another column, opposite such description of property, and in another column shall show the total value of the property by adding the totals of the two previous columns.

Approved March 3, 1971

## CHAPTER 540

SENATE BILL NO. 2386  
(Morgan, Just)

FARM TO MARKET ROAD  
TAX LEVY

AN ACT to amend and reenact section 57-15-06.3 of the North Dakota Century Code relating to farm to market roads.

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

SECTION 1. AMENDMENT.) Section 57-15-06.3 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.3. COUNTY ROAD PROGRAM INCLUDING FARM TO MARKET AND FEDERAL AID - TAX LEVY.) The board of county commissioners of any county in this state may prepare a proposed county construction program of farm to market and federal aid roads on the county road system, setting forth a general description of the roads to be constructed, the location of bridges constituting a part of the program, the approximate total mileage, and the priority of construction. After approval of such program by the department and the bureau of public roads, the board may submit such program to the electors of the county with the question of levying a tax of not to exceed ten mills upon the net taxable assessed valuation of all property in the county for the completion of such program by matching, from the proceeds of such tax, federal funds available for federal aid, secondary and feeder roads, farm to market roads, and all roads as provided for under Public Law 769, 81st Congress, or future federal aid highway acts of a similar character. If the majority of the electors voting on the question approved such program and levy, annually thereafter until such program is completed the board shall levy a tax not in excess of ten mills, which levy shall not be subject to the county mill levy limitations, and the proceeds of such tax shall be used, except as herein provided, only for matching federal aid available for such program which shall be the official county road program. If the board of county commissioners determines that a substantial change is necessary in the details of the program of farm to market and federal aid roads previously approved by the electors of the county, the board, after approval of the amendment by the department and the bureau of public roads, may submit an amendment to such program to the electors of the county. If the majority of the electors voting on the question approve



such amendment to the program, such program, as amended, shall become the official county road program. Any proceeds of a tax levy in excess of the amount needed to match federal funds in any year may be used by the county, at any time such proceeds may become available, for providing paved or any other type of road surfacing on roads included within the county road program for which the tax levy was originally made. Such paved or other type road surfacing may be used only after the question has been submitted to the electors of the county at a special election called for that purpose by the county commissioners. The use of such excess funds shall be approved by a majority of the electors voting at such special election.

Approved March 18, 1971

## CHAPTER 541

SENATE BILL NO. 2477  
(Longmire)

## PARK DISTRICT EXCESS LEVY

AN ACT to amend and reenact subsection 3 of section 57-15-12 of the North Dakota Century Code relating to excess levies in park districts.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 57-15-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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. Such excess levy may be continued from year to year by action of the park board except that if a petition containing the signatures of not less than ten percent of the electors of the park district, as determined by the city auditor of the municipality in which the park district is situated, is presented to the park board requesting an election on the question of continuing the excess levy, such question shall be submitted to the electors of the park district at the next regular park district election. If the majority of the voters at such election determine not to continue the excess levy, no further excess levy shall be made except that such election shall not affect the tax levy in the calendar year in which the election is held.

Approved March 18, 1971

## CHAPTER 542

SENATE BILL NO. 2324  
(Freed)

## TAX LEVIES IN SCHOOL DISTRICTS

AN ACT to amend and reenact subsection 3 of section 57-15-14 of the North Dakota Century Code, as contained in section 23 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, relating to tax levy limitations in school districts, and declaring an emergency.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 57-15-14 of the 1969 Supplement to the North Dakota Century Code, as contained in section 23 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

3. Any school district giving four years of standard high school work may levy taxes not to exceed thirty-four mills; except that in any school district having a total population in excess of four thousand according to the last federal decennial census:
  - a. There may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the electors voting upon the question at any regular or special school district election.
  - b. There shall be no limitation upon the taxes which may be levied by any school district having a total population in excess of four thousand according to the last federal decennial census if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted and approved by a majority of the electors voting at any regular or special election upon such question.

In the event either such election is held in a reorganized district, it shall be conducted and approved or disapproved

in the same manner and subject to the same conditions as provided in section 15-53.1-22 for elections for approval of school district reorganization plans. The question of authorizing or discontinuing such specific number of mills authority or unlimited taxing authority in any school district shall be submitted to the electorate at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of not less than ten percent of the electors of the district as determined by the county superintendent for such county in which such school is located; provided, however, that the approval of discontinuing either such authority shall not affect the tax levy in the calendar year in which the election is held. The election shall be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy;

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

Approved March 12, 1971

## CHAPTER 543

HOUSE BILL NO. 1353  
(Weber)

## TOWNSHIP EXCESS LEVY

AN ACT relating to excess mill levies in townships.

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

SECTION 1. EXCESS LEVIES IN TOWNSHIPS - AUTHORIZATION FOR MORE THAN ONE YEAR.) The board of township supervisors may submit the question of authorizing an excess levy for not to exceed a total of five years, provided the notice of election and the ballot upon which the authorization for the excess levy is submitted both contain the specific years for which such authorization is sought. Upon approval by the voters as provided in section 57-17-05, such excess levy may be levied for the years specified in the ballot.

Approved March 18, 1971

## CHAPTER 544

HOUSE BILL NO. 1391  
(Opedahl, Jacobson, McGeehan)

## COUNTY EMERGENCY FUND

AN ACT to amend and reenact section 57-15-28 of the North Dakota Century Code, relating to county emergency funds.

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

SECTION 1. AMENDMENT.) Section 57-15-28 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 22, 1971

## CHAPTER 545

SENATE BILL NO. 2481  
(Nething, Pyle, Melland)

## TAX LEVY FOR TOWNSHIP DEBT

AN ACT to provide for the levy of taxes by counties for the payment of indebtedness of townships to counties.

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

SECTION 1. TAX LEVY FOR TOWNSHIP DEBT - DUTY OF COUNTY AUDITOR - DUTY OF COUNTY TREASURER.) Whenever any township is indebted to the county in which such township is located, and such debt is more than one year past due, the county auditor, upon resolution of the board of county commissioners, shall levy a tax on the property within the township in an amount sufficient to pay the indebtedness, but in no case shall the amount of the levy cause the total levy for such township to exceed the maximum levy limitations, including excess levy limitations, provided by law. The county treasurer shall place the taxes collected to the credit of the county in payment or partial payment of the township's indebtedness.

Approved March 27, 1971

## CHAPTER 546

SENATE BILL NO. 2100  
(Melland)

## TAX LEVY FOR OLDER PERSONS' PROGRAMS

AN ACT to authorize a levy by counties and cities for programs and activities for older persons, to provide elections for authorizing or removing the levy, and to require contracts with the governing bodies of such counties and cities.

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

SECTION 1. AUTHORIZATION OF MILL LEVY FOR PROGRAMS AND ACTIVITIES FOR OLDER PERSONS - ELECTIONS TO AUTHORIZE OR REMOVE THE LEVY - CONTRACT WITH GOVERNING BODY.)

1. The board of county commissioners of any county is hereby authorized to levy a tax, or in the event no levy is made by the board of county commissioners, the governing body of any city is authorized to levy a tax, in addition to all levies now authorized by law, for the purpose of establishing or maintaining programs and activities for older persons, including the expansion of existing senior citizen centers which will provide recreational and other leisure-time activities, informational, health, welfare, counseling, and referral services for older persons, and assisting such persons in providing volunteer community or civic services. Such tax shall not exceed the amount produced by the levy of one mill on a dollar of the net taxable valuation of the county. The proceeds of such tax shall be kept in a separate fund and shall be used exclusively for the public purposes provided for in this Act, but in no event shall the accumulated fund exceed the amount produced by a one-mill annual levy.
2. The levy authorized by this Act shall not be used to defray any expenses of any organization or agency until such organization or agency is incorporated under the laws of this state as a nonprofit corporation and has contracted with the board of county commissioners or the governing body of the city in regard to the manner in which such funds will be expended and the services to be provided. An organization or agency and its program which receives funds under the provisions of this Act shall be reviewed or approved annually by the



board of county commissioners or the governing body of the city to determine its eligibility to receive funds under the provisions of this Act.

3. The levy authorized by this Act shall be imposed or removed only by a vote of at least sixty percent of the electorate of the county or city directing the governing body to do so. The governing body shall put the issue before the people either on its own motion or when a petition in writing, signed by qualified electors of the county or city equal in number to at least ten percent of the total vote cast in the county or city for the office of governor of the state at the last general election is presented to said governing body.

Approved March 29, 1971

## CHAPTER 547

HOUSE BILL NO. 1048  
(Bier, Knudson, G. Larson,  
R. Peterson, Stoltenow, Stone, Wagner)  
(From Legislative Council Study)

SCHOOL DISTRICT EXCESS  
LEVY ELECTIONS

AN ACT to amend and reenact sections 57-16-03 and 57-16-06 of the North Dakota Century Code, relating to the requirements for notice and the form of ballots for excess mill levy elections, and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 57-16-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-16-03. ELECTION TO BE HELD - NOTICE.) The governing board of the school district thereupon shall have the power to call a special election for the purpose of voting upon the question of authorizing an excess levy. Such election shall be held not later than October first of the year in which the tax is to be levied and shall be conducted as other elections of such school district except as otherwise provided in this chapter. The notice of election, in addition to the usual requirements, shall contain a statement of the question to be voted upon pursuant to the terms of this chapter, and also shall show:

1. The total amount of budgeted income and expenditures of such school district for the current fiscal year.
2. The estimated expenditures for the year for which the taxes are to be levied.
3. The amount of tax dollars under the legal mill levy limit that such school district is permitted to levy by virtue of section 57-15-14.
4. The amount of tax dollars currently being levied by such school district.
5. The amount in dollars of the tax levy that such school district seeks authority to make.
6. The increase that will result in the amount of tax dollars levied if authorization for the levy requested is given.

SECTION 2. AMENDMENT.) Section 57-16-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-16-06. FORM OF BALLOT.) The ballot whereby a levy increase shall be requested shall be substantially in the form as provided in subsection 1 if the school district is requesting authorization to raise the mill levy from the legal limit to a levy in excess of that amount, or as provided in subsection 2 if the school district is requesting authorization to increase the amount of a levy which is already in excess of the legal limit:

1. Shall \_\_\_\_\_ school district levy taxes for the year (or years) \_\_\_\_\_, which shall exceed the legal limit by \_\_\_\_\_ percent, so that the taxes levied for this current year instead of being \_\_\_\_\_ dollars, which is the limit authorized by law, shall be \_\_\_\_\_ dollars:

Yes

No

2. Shall \_\_\_\_\_ school district, which is permitted to levy taxes of \_\_\_\_\_ dollars without excess levy authorization, and which is presently levying taxes of \_\_\_\_\_ dollars through an approved excess levy of \_\_\_\_\_ percent authorized in 19\_\_, be permitted to levy taxes for the current year, 19\_\_, of \_\_\_\_\_ dollars, exceeding the normal levy by \_\_\_\_\_ percent:

Yes

No

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

Approved March 27, 1971

## CHAPTER 548

HOUSE BILL NO. 1537  
(Henning, Boyum, Lee)

## EXCESS LEVY ELECTIONS

AN ACT to amend and reenact sections 57-17-01, 57-17-02, 57-17-03, and 57-17-04 of the North Dakota Century Code, relating to excess levies in counties, cities, and townships, to notice of election, and to the form of election ballots.

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

SECTION 1. AMENDMENT.) Section 57-17-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-17-01. GOVERNING BODY MAY DECLARE TAX INSUFFICIENT.) The governing body of any county, city, or township, by a two-thirds vote of all the members of said governing body, may declare by resolution that the amount of taxes which may be raised at the maximum rate authorized by chapter 57-15 will be insufficient to provide an amount adequate for the necessary requirements of the municipality, county, or township in question, and that it is necessary to levy taxes in excess of said limitations for the purpose of meeting the current expenses of the municipality, county, or township.

SECTION 2. AMENDMENT.) Section 57-17-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-17-02. ELECTION TO AUTHORIZE EXCESS LEVY OF TAXES.) Upon the passage of the resolution authorized in section 57-17-01, the governing body of any political subdivision mentioned in such section may call a special election for the purpose of voting upon the question of authorizing an excess levy for the current year and not to exceed one succeeding year, or may submit the question to the voters at the regular primary election. If a special election is called such election shall be held not later than September first of the year in which the tax is to be levied, and, except as otherwise provided in this chapter, the election shall be conducted as other elections of such political subdivision are conducted.

SECTION 3. AMENDMENT.) Section 57-17-03 of the North

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

57-17-03. NOTICE OF ELECTION.) The notice of election, in addition to the usual requirements of a notice of election, shall contain a statement of the question to be voted upon pursuant to the terms of this chapter, and also shall show the total amount of income and expenditures of the taxing district for the fiscal year immediately preceding, the year or years for which the taxes are to be levied, the estimated expenditures for the year or years for which the taxes are to be levied, the aggregate amount of the tax levy which the tax levying board seeks authority to make for each year, the aggregate amount of the tax levy permissible without special authority from the electors for each year, and the amount of tax levy in excess of the statutory limit which the board seeks authority to make for each year. A copy of the notice of election shall be mailed by the auditor or clerk of the taxing district to the state tax commissioner on or before the date of the posting or first publication of the notice, and shall be open for public inspection in his office. In case the question is submitted by the board of county commissioners at the regular primary election, the county auditor shall publish a notice of the submission of such question with the information above indicated, or shall embody such information in the usual notice of such primary election.

SECTION 4. AMENDMENT.) Section 57-17-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-17-04. FORM OF BALLOT.) The form of the ballot on election on the question of authorizing an excess levy shall be substantially in the following form:

Shall           (naming the taxing district)           levy taxes for the years           (naming the year or years)          , which shall exceed the legal limit by                            dollars, so that the taxes levied instead of being                            dollars, which is the limit authorized by law, shall be                            dollars?

Yes

No

Approved March 30, 1971

## CHAPTER 549

HOUSE BILL NO. 1316  
(Weber)

DISCOUNT FOR EARLY  
PROPERTY TAX PAYMENT

AN ACT to amend and reenact section 57-20-09 of the North Dakota Century Code, relating to the discount for early payment of property taxes.

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

SECTION 1. AMENDMENT.) Section 57-20-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-09. DISCOUNT FOR EARLY PAYMENT OF TAX.) The county treasurer shall allow a five percent discount to all taxpayers who shall pay all of the real estate taxes levied on any tract or parcel of real property in any one year in full on or before February fifteenth prior to the date of delinquency. Such discount shall apply to all general real estate taxes levied for state, county, city, township, school district, fire district, park district, and any other taxing districts, but shall not apply to personal property taxes, special assessment installments, or hail indemnity taxes. Whenever the county commissioners, by resolution, determine that an emergency exists in any county by virtue of weather or other catastrophe they may extend the discount period for an additional thirty days.

Approved March 15, 1971

## CHAPTER 550

HOUSE BILL NO. 1418  
(Dornacker)

## ABATEMENT PROCEEDINGS

AN ACT to amend and reenact section 57-23-04 of the North Dakota Century Code, relating to the abatement or refund of property taxes; section 57-23-06 of the North Dakota Century Code, relating to the hearing on abatement applications; section 57-23-07 of the North Dakota Century Code, relating to the compromise of a property tax, and section 57-23-08 of the North Dakota Century Code, relating to the effective date of abatement actions.

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

SECTION 1. AMENDMENT.) Section 57-23-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. When an error has been made in any identifying entry or description of the property, in entering the valuation thereof, or in the extension of the tax, to the injury of the complainant.
2. When improvements on any real property were considered or included in the valuation thereof which did not exist thereon at the time fixed by law for making the assessment.
3. When the complainant, or the property, is exempt from the tax.
4. When the complainant had no taxable interest in the property assessed against him at the time fixed by law for making the assessment.
5. When taxes have been erroneously paid, or errors made

in noting payment, or in issuing receipts therefor.

6. When the same property has been assessed against the complainant more than once in the same year, and the complainant produces satisfactory evidence that the tax thereon for such year has been paid.
7. When any building, structure, or other improvement or tangible personal property has been destroyed or injured by fire, flood, or tornado; provided that proper adjustment has not been made by the assessor pursuant to subsection 4 of section 57-02-11. No abatement or refund shall be made under this subsection on account of damages covered by insurance or damages amounting to less than one hundred dollars, and the abatement or refund shall be granted only for that part of the year remaining after the property was damaged or destroyed.
8. When the assessment on the complainant's property is invalid, inequitable or unjust.

SECTION 2. AMENDMENT.) Section 57-23-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-06. HEARING ON APPLICATION.) At the next regular meeting of the board of county commissioners following the filing of an application for abatement, the applicant may appear, in person or by his representative or attorney, and may present such evidence as may bear on the application. He shall furnish any additional information or evidence requested by the board of county commissioners. Any abatement or refund of any special assessment must be approved by the governing body of the municipality in which the special assessment was made and such abatement or refund shall be effective when approved by the board of county commissioners. The recommendations of the governing body of the municipality in which such assessed property is located shall be endorsed upon or attached to every application for an abatement or refund, and the board of county commissioners shall give consideration to such recommendations. The board of county commissioners, by a majority vote, either shall approve or reject the application, in whole or in part. If rejected, a statement of the reasons for such rejection, signed by the chairman of the board, shall be attached to the application, and a copy thereof shall be mailed by the county auditor to the applicant at the post-office address specified in the application.

SECTION 3. AMENDMENT.) Section 57-23-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-07. COUNTY COMMISSIONERS MAY COMPROMISE TAX.) Whenever taxes on any real estate remain unpaid and such property



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

SECTION 4. AMENDMENT.) Section 57-23-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 57-23-08. WHEN ACTION EFFECTIVE.) Except as hereinafter provided the granting of any application for abatement or refund shall be effective when approved by the state tax commissioner, and when so approved the county auditor shall correct all tax lists in accordance with the order of abatement, and the applicant shall be relieved of further liability for the tax abated. If the tax commissioner disapproves any application for abatement or refund, in whole or in part, he shall state the basis for disapproval thereon and, the applicant may appeal the rejection of the application for abatement or refund to the district court within thirty days from the date of the mailing of the notice of rejection or, in lieu thereof, the appellant, pursuant to chapter 28-32 of the North Dakota Century Code, shall have a right to a hearing before the tax commissioner as an administrative agency on such application for abatement or refund, provided that a hearing thereon is demanded by the applicant within thirty days from the date of the mailing of the notice of the rejection of the application for abatement or refund. All of the provisions of chapter 28-32 relating to proceedings before an administrative agency, including the right to appeal to the district court, shall be applicable to and shall govern the hearing. The following applications for abatement or refund, however, need not be approved by the tax commissioner and they shall become effective when approved by the board of county commissioners:

1. An abatement or refund of any special assessment;
2. An abatement or refund with respect to a reduction of not more than one thousand dollars of net assessed valuation.

With respect to any application for abatement that is not required to be submitted for approval to the state tax commissioner, as provided in this section, the county auditor at the close of each calendar year shall certify to the director of the state department of accounts and purchases the amount of state taxes canceled by such action of the board of county commissioners and the same shall be credited to the county.

\*NOTE: Section 57-23-08 was also amended by section 1 of Senate Bill No. 2207, chapter 552.

Approved March 27, 1971

## CHAPTER 551

HOUSE BILL NO. 1183  
(Gackle, Boyum, Ulvedal)

APPRAISAL OF PROPERTY IN  
ABATEMENT PROCEEDINGS

AN ACT to create and enact a new section to chapter 57-23 of the North Dakota Century Code, relating to the abatement and refund of property taxes.

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

SECTION 1.) A new section to chapter 57-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

APPRAISAL OF PROPERTY - PREMISES OPEN TO INSPECTION.) The applicant by filing an application for an abatement, refund or compromise of a tax with the county auditor, consents to inspection of the premises involved in the application by the board of county commissioners, the governing body of the city or township, or the state tax commissioner or the duly authorized agents thereof for the purpose of making an appraisal of said property. The premises shall be open to inspection to the person having authorization to make the appraisal upon giving reasonable notice to the applicant.

Approved March 22, 1971

## CHAPTER 552

SENATE BILL NO. 2207  
(Unruh)

## APPEAL IN ABATEMENT PROCEEDINGS

AN ACT to amend and reenact section 57-23-08 of the North Dakota Century Code, relating to property tax abatements and to repeal section 57-23-10 of the North Dakota Century Code, relating to appeals from decision of the board of county commissioners abating, refunding or compromising property taxes.

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

SECTION 1. AMENDMENT.) Section 57-23-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*57-23-08. WHEN ACTION EFFECTIVE.) Except as hereinafter provided the granting of any application for abatement or refund or compromise of any tax shall be effective when approved by the state tax commissioner, and when so approved the county auditor shall correct all tax lists in accordance with the order of abatement or compromise, and the applicant shall be relieved of further liability for the tax abated or compromised. If the board of county commissioners or if the tax commissioner disapproves any application for abatement or refund or compromise, in whole or in part, the reasons for disapproval shall be stated thereon and, the applicant may appeal the rejection of the application for abatement or refund or compromise to the district court within thirty days from the date of the mailing of the notice of rejection. If an appeal is taken from the decision of the board of county commissioners abating, refunding, or compromising any tax, or refusing so to do, the appeal shall be taken in the manner provided for other appeals from the decisions of the board of county commissioners; the state tax commissioner and any taxing district which has levied a tax which will be affected by the abatement, refund or compromise, shall be made a party in said appeal. In lieu of appealing to the district court, the appellant, pursuant to chapter 28-32 of the North Dakota Century Code, shall have a right to a hearing before the tax commissioner as an administrative agency on such application for abatement or refund, provided that a hearing thereon is demanded by the applicant within thirty days from the date of the mailing of the notice of the rejection of the application for abatement or refund. All of the provisions of chapter 28-32 relating to proceedings before an administrative agency, including the right to appeal to the district court, shall be applicable

\*NOTE: Section 57-23-08 was also amended by section 4 of House Bill No. 1418, chapter 550.

to and shall govern the hearing. The following applications for abatement or refund, however, need not be approved by the tax commissioner and they shall become effective when approved by the board of county commissioners:

1. An abatement or refund of any special assessment;
2. An abatement or refund with respect to a reduction of not more than one thousand dollars of net assessed valuation.

With respect to any application for abatement that is not required to be submitted for approval to the state tax commissioner, as provided in this section, the county auditor at the close of each calendar year shall certify to the director of the state department of accounts and purchases the amount of state taxes canceled by such action of the board of county commissioners and the same shall be credited to the county.

SECTION 2. REPEAL.) Section 57-23-10 of the North Dakota Century Code is hereby repealed.

Approved March 30, 1971

## CHAPTER 553

SENATE BILL NO. 2297  
(Barth, Just)

## NOTICE OF TAX SALE

AN ACT to amend and reenact section 57-24-02, and to repeal section 57-24-06 of the North Dakota Century Code, relating to the posting of delinquent real estate taxes.

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

SECTION 1. AMENDMENT.) Section 57-24-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-24-02. COUNTY AUDITOR TO GIVE NOTICE OF TAX SALE BY POSTING NOTICE.) 1. At least twenty days before the second Tuesday in December of each year the county auditor of each county shall prepare a list of all delinquent real estate taxes, and shall post or cause to be posted one copy thereof in a conspicuous place in his office, and shall retain a copy of such list which at all times shall be on file and open to public inspection in his office, and also, upon a resolution of the county commissioners, extra copies of the list of delinquent real estate taxes may be placed in banks and such other places as designated by the county commissioners.

SECTION 2. REPEAL.) Section 57-24-06 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1971

## CHAPTER 554

SENATE BILL NO. 2379  
(Doherty)

COLLECTION OF PROPERTY TAXES  
FROM TRANSPORTATION COMPANIES

AN ACT to amend and reenact section 57-32-05 of the North Dakota Century Code, relating to the collection of property taxes from car line, express, and air transportation companies.

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

SECTION 1. AMENDMENT.) Section 57-32-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

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

owes any debts to the delinquent.

After receiving the notice the railroad company so notified shall neither transfer nor make other disposition of the credits, or debts until the state treasurer consents to a transfer or disposition or until 60 days elapse after receipt of the notice. All railroad companies so notified shall advise the state treasurer within ten days after receipt of the notice of all such credits or debts in their possession, under their control, or owing by them.

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

Approved March 22, 1971

## CHAPTER 555

SENATE BILL NO. 2049  
(Butler, Jacobson, Rait, Wilhite)  
(From Legislative Council Study)

IMPOSITION OF SALES TAX  
ON BANKS

AN ACT to amend and reenact sections 57-35-06 and 57-35.1-02 of the North Dakota Century Code, relating to the taxation of banks, trust companies, and building and loan associations, and to repeal subsection 19 of section 57-39.2-04 of the North Dakota Century Code, to remove the exemption from the sales tax for banks.

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

SECTION 1. AMENDMENT.) Section 57-35-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 2. AMENDMENT.) Section 57-35.1-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 3. REPEAL.) Subsection 19 of section 57-39.2-04 of the North Dakota Century Code is hereby repealed.

Approved February 19, 1971



## CHAPTER 556

HOUSE BILL NO. 1102  
(Bunker)

SURVIVING SPOUSE'S  
ESTATE TAX EXEMPTION

AN ACT to amend subdivision h of subsection 2 of section 57-37-11 of the North Dakota Century Code, relating to the computation of the adjusted gross estate for purposes of determining the exemption to a surviving spouse for estate tax purposes, and providing an effective date.

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

SECTION 1. AMENDMENT.) Subdivision h of subsection 2 of section 57-37-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- h. The aggregate amount of the deductions allowed under this subsection, computed without regard to this subdivision, shall not exceed fifty per centum of the value of the adjusted gross estate or twenty thousand dollars, whichever is the larger. The adjusted gross estate shall, for the purposes of this subdivision, be computed by subtracting from the entire value of the gross estate the aggregate amount of the deductions allowed by subsections four, five, six, seven, eight, nine, eleven, twelve, thirteen, and fourteen of this section.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall apply to the estate of any decedent who died on or after July 1, 1971.

Approved March 30, 1971

## CHAPTER 557

HOUSE BILL NO. 1216  
(Atkinson)

## ESTATE TAX REPORTS AND INVENTORIES

AN ACT to amend and reenact section 57-37-22 of the North Dakota Century Code, relating to estate tax reports, inventories, applications and supplements.

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

SECTION 1. AMENDMENT.) Section 57-37-22 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-22. REPORTS, INVENTORIES, ESTATE TAX APPLICATIONS AND SUPPLEMENTS.) It shall be the duty of the executor, administrator, trustee or other interested person of competent legal capacity to file an estate tax return and, before the final settlement of an estate, to furnish a supplemental or amended inventory and amended estate tax return listing all property and taxable transfers or other events that have come to his knowledge since the first inventory or estate tax return was made which would result in a change in either the amount of the estate tax initially determined or the statements made by the affiant therein. He also shall furnish copies of any documents or records, and any other information pertaining to the estate, or the value thereof, upon request of the county court.

It shall be the further duty of the executor, administrator, trustee or other interested person of competent legal capacity, to file an amended estate tax return within ninety days after any amended estate tax return is filed pursuant to the provisions of the United States Internal Revenue Code. If no amended federal estate tax return is filed but the federal estate tax return is changed or corrected, such change or correction shall be reported to the county court and to the state tax commissioner within ninety days after the final determination of such change or correction is made and the court shall reassess the estate tax thereon. Upon receipt of an amended estate tax return or, upon notification of any change or correction made on the federal estate tax return, the county court, having jurisdiction over the estate, shall reassess the estate tax.

Approved March 3, 1971

## CHAPTER 558

HOUSE BILL NO. 1469  
(Boustead)

## TRANSFER OF DECEDENT'S ASSETS

AN ACT to amend and reenact section 57-37-29 of the North Dakota Century Code, relating to depositories and retention, transfer or release of a decedent's assets.

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

SECTION 1. AMENDMENT.) Section 57-37-29 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-29. DEPOSITORIES - NOTICE OF TRANSFER OF DECEDENT'S ASSETS.)

1. Any safe deposit company, trust company, corporation, bank, or other institution or person having possession, control, custody, or partial control or custody of any securities, deposits, or other assets, including shares of the capital stock of, or other interest in, such safe deposit company, trust company, corporation, bank, or other institution, standing in the name of a resident or nonresident decedent, or belonging to or standing in the joint name of such decedent and one or more other persons, who delivers or transfers the same to the executor, administrator, or other legal representative, agent, deputy, attorney, trustee, legatee, heir, surviving joint owner, or any other successor in interest of such decedent, shall give the tax commissioner notice of the amount paid and the name or names and addresses of the transferees, which notice shall be on a form prescribed by the tax commissioner. Such notice shall be filed with the tax commissioner within thirty days from the date of payment. If no notice is given by the transferor, as prescribed herein, the transferor shall be liable for any estate tax which is unpaid on the asset which was transferred.
2. In the case of an insurer paying proceeds of a life insurance contract in which the decedent had an incident of ownership, determined pursuant to the provisions of section 57-37-02 of this chapter,

the insurer may pay the proceeds of the life insurance contract to the stated beneficiary in the contract immediately, however, the insurer shall give the tax commissioner notice of the amount paid pursuant to the contract and any other information required by the tax commissioner regardless of the amount of the contract. Such notice shall be filed with the tax commissioner within thirty days from the date of payment.

3. The provisions of subsection 1 of this section shall not apply when a request for the transfer of securities has been made by any trust company acting as an executor or administrator of an estate, provided that the trust company is qualified to do business under the laws of the state of North Dakota.

Approved March 31, 1971

## CHAPTER 559

HOUSE BILL NO. 1468  
(Giffey)

TAX RETURNS OF  
TAX EXEMPT ORGANIZATIONS

AN ACT to amend and reenact sections 57-38-09.1 and 57-38-34 of the North Dakota Century Code, relating to the due date for filing tax returns by tax exempt organizations and cooperatives and providing for an effective date.

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

SECTION 1. AMENDMENT.) Section 57-38-09.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-09.1. ORGANIZATIONS EXEMPT FROM INCOME TAX - FILE AFFIDAVIT.) Any organization exempt from taxation pursuant to section 57-38-09 must file an affidavit with the tax commissioner in such form and manner as may be prescribed by the tax commissioner containing such information as is necessary to enable him to determine the exempt status of the organization. Affidavits made on the basis of the calendar year shall be filed on or before the fifteenth day of May following the close of the calendar year and affidavits made on the basis of a fiscal year shall be filed on or before the fifteenth day of the fifth month following the close of the fiscal year.

SECTION 2. AMENDMENT.) Section 57-38-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-34. TIME AND PLACE OF FILING RETURNS - INTEREST ON TAX WHEN TIME FOR FILING IS EXTENDED.) 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 made on the basis of the calendar year shall be filed on or before the fifteenth day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the fifteenth day of the fourth month following the close of the fiscal year. Returns for cooperatives, however, made on the basis of the calendar year shall be filed on or before the fifteenth day of September following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the fifteenth day of the ninth month following the close of the fiscal year. 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.

SECTION 3. EFFECTIVE DATE.) The provisions of this Act to be effective for all returns filed or to be filed after December 31, 1970.

Approved March 15, 1971

## CHAPTER 560

HOUSE BILL NO. 1164  
(Dornacker)

## NEW INDUSTRY CORPORATE TAX CREDIT

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

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

SECTION 1. AMENDMENT.) Section 57-38-30.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 27, 1971

## CHAPTER 561

SENATE BILL NO. 2418  
(Butler)

## AUDITING CORPORATE TAX RETURNS

AN ACT to amend and reenact subsection 1 of section 57-38-38 of the North Dakota Century Code, relating to the time for auditing corporate income tax returns.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 57-38-38 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as otherwise provided in this subsection and subsections 2, 3, 4, 5, 6 and 7 of this section, the tax commissioner shall proceed to audit the returns of taxpayers and, not later than three years after the due date of the return, or three years after the return was filed, whichever period expires later, assess the tax and, if any additional tax is found due, shall notify the taxpayer in detail as to the reason for the increase; provided, that as to any corporation whose principal place for managing or directing its business is outside North Dakota the tax commissioner shall have six years after the due date of the return or six years after the return was filed, whichever period expires later, to audit the return of such corporation and assess any additional tax found due and to notify such corporation in detail as to the reason for the assessment of the additional tax;

Approved March 18, 1971



## CHAPTER 562

SENATE BILL NO. 2420  
(Butler)

## REVISION OF INCOME TAX ASSESSED

AN ACT to amend and reenact subsection 1 of section 57-38-40 of the North Dakota Century Code, relating to income tax revisions.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 57-38-40 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as provided in subsection 2 of this section, a taxpayer may apply to the tax commissioner for revision of the tax assessed at any time within three years after the due date of the return or within three years after the return was filed, whichever period expires latest. The tax commissioner shall grant a hearing thereon, and if upon such hearing he shall determine that the tax is excessive or incorrect, he shall resettle the same according to the law and the facts and shall adjust the computation of the tax accordingly. The tax commissioner shall notify the taxpayer of his determination and shall cause to be refunded to the taxpayer the amount, if any, paid in excess of the tax found by him to be due. If the taxpayer has failed, without good cause, to file a return within the time prescribed by law, or has filed a fraudulent return within the time prescribed by law, or has failed, after notice, to file a proper return, the tax commissioner shall not reduce the tax below double the amount for which the taxpayer is found to be properly assessed. Refund claims properly verified and approved by the tax commissioner shall be audited and paid as are other claims against the state.

Approved March 18, 1971

## CHAPTER 563

HOUSE BILL NO. 1049  
(Backes, Dornacker, Gackle, L. Larson, Weber)  
(Legislative Council Study)

## RESERVE FOR INCOME TAX REFUNDS

AN ACT to create and enact section 57-38-40.1 of the North Dakota Century Code, to provide for a reserve for income tax refunds.

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

SECTION 1.) Section 57-38-40.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-40.1. INCOME TAX REFUND RESERVE.) A reserve for income tax refunds is hereby created as a special fund in the state treasury. The state tax commissioner shall deposit in such fund such amounts from income tax collections as he may deem necessary to pay refunds to which taxpayers may be entitled under the provisions of this chapter and appropriated pursuant to section 186 of the Constitution of North Dakota.

Approved February 19, 1971

## CHAPTER 564

HOUSE BILL NO. 1166  
(Dornacker)

## INCOME TAX INTEREST AND PENALTIES

AN ACT to amend and reenact subsection 1 of section 57-38-45 of the North Dakota Century Code, relating to income tax interest and penalties.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 57-38-45 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. If any taxpayer, without intent to evade any tax imposed by this chapter, shall fail to file a return of income or pay a tax if one is due at the time required by or under the provisions of this chapter, but voluntarily shall file a correct return of income or pay the tax due within sixty days thereafter, or if upon audit, an additional tax is found to be due, there shall be added to the tax a penalty of five percent thereof, or one dollar whichever is greater, plus interest of one percent of such tax for each month or fraction of a month during which the tax remains unpaid, excepting the first month after such return was required to be filed or such tax became due;

Approved March 15, 1971

## CHAPTER 565

SENATE BILL NO. 2413  
(Butler)

## BUSINESS PRIVILEGE TAX

AN ACT to amend and reenact subsection 1 of section 57-38-66 of the North Dakota Century Code, relating to the tax on individuals, estates and trusts for the privilege of doing business in this state; to provide an effective date; and to declare an emergency.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 57-38-66 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1970.

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

Approved March 30, 1971

## CHAPTER 566

SENATE BILL NO. 2212  
(Thoreson, Butler)

## DEFINITION OF "RETAIL SALE"

AN ACT to amend and reenact subsection 3 of section 57-39.2-01 of the North Dakota Century Code, relating to the definition of a "retail sale" for sales tax purposes.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 57-39.2-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, electricity, water, and communication service to retail consumers or users; the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding, manufacturing, producing or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property shall be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit shall not be considered a taxable sale. As used in this subsection the word "consumer" shall include any hospital, infirmary, sanatorium, nursing home, home for the aged or similar institution that furnishes services to any patient or occupant.

Approved March 17, 1971

## CHAPTER 567

HOUSE BILL NO. 1051  
(Backes, Dornacker, Gackle, L. Larson, Weber)  
(Legislative Council Study)

EXEMPTION FOR EXCHANGE  
OF AGRICULTURAL PRODUCTS

AN ACT to repeal subsection 3 of section 57-39.2-04 of the North Dakota Century Code, relating to the exemption from the sales tax of agricultural products when sold in exchange for like agricultural products produced by the purchaser and is for the purchaser and his family.

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

SECTION 1. REPEAL.) Subsection 3 of section 57-39.2-04 of the North Dakota Century Code is hereby repealed.

Approved February 19, 1971

## CHAPTER 568

SENATE BILL NO. 2309  
(Sanstead, Coughlin)

## SALES TAX EXEMPTION FOR TEXTBOOKS

AN ACT to amend and reenact subsection 5 of section 57-39.2-04 of the North Dakota Century Code, relating to the exemption of textbooks from sales tax.

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

SECTION 1. AMENDMENT.) Subsection 5 of section 57-39.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 27, 1971

## CHAPTER 569

SENATE BILL NO. 2267  
(Goldberg, Nasset, Robinson, Jacobson)

SALES TAX EXEMPTION FOR  
SALE OF FEED

AN ACT to amend and reenact subsection 11 of section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions of certain feed sales.

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

SECTION 1. AMENDMENT.) Subsection 11 of section 57-39.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11. Gross receipts from the sale of feed which is fed to poultry or livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, milk, meat, fibers, or other products for human consumption and the gross receipts from the sale of feed purchased for the purpose of being fed to draft or fur-bearing animals. The word "feed" as used herein shall be construed to mean and include only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone, molasses, beet pulp, meat and bone scraps, meal, drugs to be used as part of a feed ration, and other generally recognized animal feeds. The term "feed" does not include drugs not used as part of a feed ration, medicants, disinfectants, wormers, tonics, and like items.

Approved March 17, 1971



## CHAPTER 570

SENATE BILL NO. 2353  
(Butler, Thoreson, Page, Ringsak)

SALES TAX EXEMPTIONS  
FOR FOREIGN PURCHASERS

AN ACT to amend and reenact subsection 12 of section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions.

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

SECTION 1. AMENDMENT.) Subsection 12 of section 57-39.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12. Gross receipts from all sales otherwise taxable under this chapter when made to persons who are residents of adjoining states which do not impose or levy a retail sales tax or are residents of Canada; provided that such persons are in the state of North Dakota for the express purpose of making such purchases, and not as tourists; and provided further that any such person furnish to the North Dakota retailer a certificate signed by him in such form as the tax commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless such certificate is furnished it shall be presumed, until the contrary is shown, that such person was not in the state of North Dakota for the express purpose of making such purchases; provided further that this exemption shall not apply to any sale to any person who is a resident of another state if the sales price is ten dollars or less or to any person who is a resident of Canada if the sales price is five hundred dollars or less. The deduction for this exemption shall not exceed one and one-half of the amount of the deduction for exempt sales in interstate or foreign commerce which the retailer was legally entitled to deduct on his sales tax returns for the calendar year 1969. If no deduction was taken for interstate or foreign commerce sales on returns filed for the calendar year 1969 or if no returns were required to be filed for the calendar year 1969, the deduction for this exemption shall not exceed the average interstate or foreign commerce deduction legally allowed by retailers conducting similar business, as determined by the tax commissioner.

Approved March 11, 1971

## CHAPTER 571

SENATE BILL NO. 2294  
(Freed)

EXEMPTION FOR LEASING OR RENTING  
RESIDENTIAL HOUSING

AN ACT to create and enact subsection 22 of section 57-39.2-04 and subsection 10 of section 57-40.2-04 of the North Dakota Century Code, relating to exemption from sales and use tax.

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

SECTION 1.) Subsection 22 of section 57-39.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

22. Gross receipts from the leasing, or renting, for residential housing for periods of more than 30 consecutive days, of factory manufactured homes, including mobile homes, modular living units, or sectional homes, whether or not placed on a permanent foundation.

SECTION 2.) Subsection 10 of section 57-40.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

10. Gross receipts from the leasing, or renting, for residential housing, for periods of more than 30 consecutive days, of factory manufactured homes, including mobile homes, modular living units, or sectional homes, whether or not placed on a permanent foundation.

Approved March 11, 1971

## CHAPTER 572

HOUSE BILL NO. 1053  
(Backes, Dornacker, L. Larson, Weber)  
(From Legislative Council Study)

EXEMPTING FOOD PURCHASED  
UNDER STUDENT BOARDING CONTRACT

AN ACT to create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to the exemption of food purchased by a student from a college, university, fraternity or sorority.

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

SECTION 1.) A new subsection to section 57-39.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Food purchased by a student under a boarding contract with a college, university, fraternity or sorority.

Approved March 27, 1971

## CHAPTER 573

HOUSE BILL NO. 1105  
(Boustead, Atkinson, Bunker)

LIMITATIONS ON COLLECTION  
OF SALES AND USE TAXES

AN ACT to amend and reenact subsection 1 of section 57-39.2-10, subsection 2 of section 57-39.2-17, and section 57-40.2-09 of the North Dakota Century Code, to provide that proceedings for the collection of sales and use taxes must be brought within three years after the due date of such taxes.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 57-39.2-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. Every retailer required to make a report and pay any tax under this chapter shall preserve such records of the gross proceeds of sale as the commissioner may require and every retailer shall preserve for a period of three years 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.

SECTION 2. AMENDMENT.) Subsection 2 of section 57-39.2-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If any tax imposed by this chapter remains unpaid, a proceeding in court for the collection of such tax may be begun at any time within three years after the due date of such tax or at any time within three years after the date the tax liability became finally and irrevocably fixed pursuant to section 57-39.2-15, whichever occurs later in point of time; provided that no limitation of time to collect such tax shall apply if the failure to pay such tax was due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax. The limitations provided by this chapter in regard to a commencement of court proceedings shall not apply

to any assessment of tax made by the tax commissioner prior to July 1, 1971.

SECTION 3. AMENDMENT.) Section 57-40.2-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-09. RECORDS REQUIRED.) Each retailer required or authorized to collect the tax imposed by this chapter, and each person using in this state tangible personal property purchased shall keep such records, receipts, invoices, and other pertinent papers as the tax commissioner shall require and each such retailer or person shall preserve for a period of three years all invoices and other records of such tangible personal property purchased for resale or for use. The commissioner, or any duly authorized agent, may examine the books, papers, records, and equipment of any person who sells tangible personal property or who is liable for such tax, and may investigate the character of the business of any such person to verify the accuracy of any return made, or if no return was made, to ascertain and determine the amount due. Any such books, papers, and records shall be made available within this state for such examination upon reasonable notice if the tax commissioner shall make an order to that effect.

Approved March 15, 1971

## CHAPTER 574

SENATE BILL NO. 2208  
(Erdman)

## MOTOR FUEL TAX REFUND

AN ACT to amend and reenact section 57-50-02 of the North Dakota Century Code, relating to the form of claim for refund of motor fuel tax.

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

SECTION 1. AMENDMENT.) Section 57-50-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-02. FORM OF CLAIM FOR REFUND.) Such claim shall be in a form furnished by the tax commissioner and shall have a written declaration by the claimant that it is made under the penalties of perjury. It shall have attached thereto the original invoice or invoices showing the purchase of the motor vehicle fuel on which a refund is claimed, shall state the name of the person from whom the motor vehicle fuel was purchased, the date of purchase, the total amount of such motor vehicle fuel, that the purchase price thereof has been paid and that in said price was included the motor vehicle fuel tax payable to the state of North Dakota under chapter 57-54, relating to the tax on motor vehicle fuels, that such motor vehicle fuel was used or is to be used by the claimant otherwise than in motor vehicles operated or intended to be operated upon the public highways of this state, the manner in which said motor vehicle fuel was used or is to be used, the equipment in which such motor vehicle fuel was used, or in which it will be used, and such other information as the tax commissioner shall require. In the event the original invoice or invoices are lost, the claimant may furnish, in lieu thereof, duplicate invoices together with a separate affidavit on forms prescribed by the tax commissioner.

Approved March 22, 1971

## CHAPTER 575

HOUSE BILL NO. 1174  
(Wilkie)

## CLAIM FOR MOTOR FUEL TAX REFUND

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

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

SECTION 1. AMENDMENT.) Section 57-50-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

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

Approved March 22, 1971

## CHAPTER 576

HOUSE BILL NO. 1281  
(Boyum)ASSIGNMENT OF MOTOR FUEL  
TAX REFUND

AN ACT to amend and reenact section 57-50-11.1 of the North Dakota Century Code, relating to assignment of motor fuel tax by persons holding designated permits.

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

SECTION 1. AMENDMENT.) Section 57-50-11.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-11.1. PERMIT REQUIRED DURING CERTAIN PERIOD - REVOCATION THEREOF.) Refund claims on motor fuel tax resulting from sale of motor fuel occurring during the period from the first day of April through the thirtieth day of September may be assigned to the seller of the fuel when any sales receipt for the purchase of motor fuel on which a tax refund is owing under this chapter becomes thirty days or more old. The purchaser may assign to the seller his claim for refund by acknowledging the assignment agreement in writing on forms prescribed by the tax commissioner. Before any person shall be allowed to assign his motor fuel tax refund to the seller during this period, he must have an unrevoked permit issued by the state tax commissioner authorizing such assignment. The permit herein shall be issued to every applicant upon completion and forwarding to the state tax commissioner an application form prescribed and furnished by the state tax commissioner. Such application shall contain the sworn statement of the applicant that he is engaged in the business of agriculture and intends to use any fuel so assigned for agricultural purposes only. Such permit shall not be transferable and shall be valid for the person in whose name it is issued only. Permits issued under the provisions of this section shall be valid and effective until revoked by the state tax commissioner. Where such assignment is made the seller may forward it to the state tax commissioner for credit on his fuel tax return in the amount of the refund owing on the assigned sales receipt. Any purchaser who shall assign his claim for refund under the provisions of this section and each assignee must file an annual report with the state tax commissioner within the time limitation set forth in section 57-50-03. If any purchaser or assignee shall fail to file such report within the period of time designated herein, the state tax commissioner shall revoke such permit authorizing such assignment in the same manner as provided for in section 57-54-11. Such report forms shall be furnished by the state tax commissioner in substantially the same form as is prescribed in section 57-50-02.

Approved March 15, 1971



## CHAPTER 577

HOUSE BILL NO. 1104  
(L. Larson)

## MOBILE HOME TAX ADMINISTRATION

AN ACT to create and enact section 57-55-01.1 of the North Dakota Century Code, and to amend and reenact sections 57-55-01, 57-55-02, 57-55-03, 57-55-04, 57-55-05, 57-55-06, 57-55-07, 57-55-08, 57-55-10, 57-55-11, and 57-55-12 of the North Dakota Century Code, relating to the taxation of mobile homes, providing that county directors of tax equalization shall administer such tax, and providing penalties.

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

SECTION 1. AMENDMENT.) Section 57-55-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-01. MOBILE HOME DEFINED.) For the purposes of this chapter, "mobile home" shall mean any nonself-propelled vehicular structure built on a chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, and used as the residence or place of business of the owner or occupant.

SECTION 2. Section 57-55-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-55-01.1. TAXATION OF MOBILE HOMES.) The owner of each mobile home shall file an application for a mobile home tax decal with the director of tax equalization in the county in which the mobile home is located on or before January tenth of each year or within ten days after such mobile home is purchased or first moved into this state. Upon payment of the tax to the county treasurer, a mobile home tax decal shall be issued to the owner of the mobile home. The tax decal shall be valid in any county of this state for such mobile home during the period for which it was issued.

SECTION 3. AMENDMENT.) Section 57-55-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-02. APPLICATION FOR TAXING - FORM - CONTENTS.) No mobile home tax decal shall be issued unless the owner files an

application with the director of tax equalization and pays the tax and any penalties in full to the county treasurer. Application shall be made on forms prescribed by the state tax commissioner, furnished by the county director of tax equalization, and shall contain the necessary information to carry out the provisions of this chapter.

SECTION 4. AMENDMENT.) Section 57-55-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 57-55-03. WHEN TAXES BECOME DUE AND DELINQUENT - PENALTY.) The tax imposed in this chapter shall become due and payable on January tenth of each year or ten days after such mobile home is purchased or first moved into this state. If the tax due for the entire year is paid in full on or before February fifteenth, the county treasurer shall allow a five percent discount. A five percent discount shall also be allowed by the county treasurer if a mobile home is purchased or moved into this state after January tenth of each year if the tax imposed thereon by this chapter is paid in full within ten days after it is purchased or moved into this state. The tax imposed by this chapter may be payable in two equal installments if the amount of the tax due is forty dollars or more. The first installment shall become due on January tenth and shall become delinquent on the first day of March following and, if not paid on or before said date, shall be subject to a penalty of two percent, and on April first following, an additional penalty at the rate of two percent, and on May first following, an additional penalty of two percent, and an additional penalty of two percent on June first following. The second installment shall become due on or before June first and shall become delinquent on the first day of July following and, if the second installment is not paid on or before that date, it shall be subject to a penalty of two percent, and on August first following, an additional penalty of two percent, and on September first following, an additional two percent, and on October first following, an additional two percent.

SECTION 5. AMENDMENT.) Section 57-55-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 57-55-04. TAXES - HOW DETERMINED - DISBURSEMENT.) The tax for each mobile home shall be determined by the director of tax equalization by placing an evaluation on such mobile home pursuant to standards and guides as determined by the state tax commissioner and applying such evaluation to the preceding year's total mill levies applying to property within the taxing district wherein the mobile home is located. If a mobile home is acquired or moved into this state during the calendar year, and a tax decal has not been previously issued on such mobile home in this state for such year, the tax shall be determined by computing the remaining number of months of the current year to the nearest full month and multiplying such number by one-twelfth of the amount

\*NOTE: Section 57-55-03 was also amended by section 26 of House Bill No. 1045, chapter 158.

\*NOTE: Section 57-55-04 was also amended by section 27 of House Bill No. 1045, chapter 158.

which would be due for the full year. The taxes collected pursuant to the provisions of this chapter shall be disbursed in the same manner as real estate taxes are disbursed.

SECTION 6. AMENDMENT.) Section 57-55-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-05. TAXES IN LIEU OF OTHER PROPERTY TAXES.) The taxes provided for in this chapter shall be in lieu of all property taxes upon such mobile homes for the calendar year for which the tax decal is valid. However, such taxes shall in no way be construed as exempting any mobile home owner from the requirements of registering such mobile home with the motor vehicle registrar or securing license plates entitling such mobile home to be hauled upon the state's highways pursuant to section 39-18-03.

SECTION 7. AMENDMENT.) Section 57-55-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-06. TAX DECALS - FORM - DISPLAY.) The tax decal shall be decal type and of a size and design specified by the state tax commissioner. The director of tax equalization shall order sufficient decals for his county, and the costs of such decals shall be paid by the county. The tax decal shall be attached to the mobile home in a conspicuous place where it is visible from the nearest street or common driveway.

SECTION 8. AMENDMENT.) Section 57-55-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-07. FAILURE TO MAKE APPLICATION OR TO DISPLAY DECAL - ILLEGAL USE OF DECAL - PENALTY.) Any person who fails to make application pursuant to the provisions of this chapter, or who shall use or allow to be used a tax decal of any mobile home taxed pursuant to the provisions of this chapter for any purpose other than the purpose for which it was issued, or who fails to attach such decal pursuant to the provisions of this chapter, shall be guilty of a misdemeanor and punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

SECTION 9. AMENDMENT.) Section 57-55-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-08. DUTY OF MOBILE HOME PARK OPERATORS AND LICENSED MOBILE HOME DEALERS - PENALTY.) It shall be the duty of the owner, operator, or manager of each mobile home park or lot, or any mobile home dealer to display in his office, in a conspicuous place, a notice listing the provisions and requirements of this chapter. Such notice shall be subscribed by the state tax

commissioner and shall be furnished by the director of tax equalization of the county in which the owner, operator, or manager of the mobile home park or lot, or mobile home dealer, resides. It shall be the duty of the owner, operator, or manager of each mobile home park or lot to make an annual written report on or before December first of each year to the director of tax equalization of such county. Such report shall list the number of mobile homes and the name of the owner of each mobile home which is located within each such mobile home park or lot. In addition, it shall be the duty of such owner, operator, or manager to furnish a quarterly report providing the name and date of arrival of each mobile home owner who was not listed on the last annual report. Any person who refuses to make a report as required by this section shall, after the first offense, be guilty of a misdemeanor and punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

SECTION 10. AMENDMENT.) Section 57-55-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-10. EXCEPTIONS.) The provisions of this chapter shall not apply to mobile homes which:

1. Are used only for the temporary living quarters of the owners or other occupants while such persons are engaged in recreational or vacation activities, provided that such units display current travel trailer licenses.
2. Qualify as a farm residence provided such mobile homes are permanently attached to the ground and the owners of such mobile homes own the land on which such mobile homes are located.
3. Are owned and used as the living quarters of military personnel on active military duty in this state who are residents of another state.
4. Are owned and occupied by welfare recipients who meet the requirements of section 57-02-21, provided such mobile homes are not permanently attached to the land and classified as real property.
5. Are permanently attached to a foundation and are assessed as real property, provided the owners of such mobile homes also own the land on which such mobile homes are located.
6. Are owned by licensed mobile home dealers who hold such mobile homes solely for the purpose of resale, and provided that such mobile homes are not used as living quarters or as the places for the conducting of any business.

7. Are owned and used as the living quarters for disabled veterans who meet the requirements of subsection 20 of section 57-02-08.

SECTION 11. AMENDMENT.) Section 57-55-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-11. COLLECTION - ENFORCEMENT.) The director of tax equalization shall make an inspection of each mobile home park, lot, or other place in which mobile homes are located, for the purpose of determining whether the provisions of this chapter are being complied with. If he shall determine that any person is not complying with the provisions of this chapter, he shall give such person a warning that if such person fails to comply within ten days after the issuance of such warning, the director of tax equalization will begin civil action against such person. In the event the director of tax equalization shall determine that there are mobile homes in his county belonging to transients or non-residents who have failed to comply with the provisions of this chapter, and in his opinion the taxes will be uncollectable if immediate action is not taken, he shall notify the county sheriff. The county sheriff shall immediately, and in no event later than five days after receiving such notification, commence proceedings as provided by law to collect the taxes and penalties, if any, which are due.

SECTION 12. AMENDMENT.) Section 57-55-12 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-12. REFUNDS.)

1. If the owner of any mobile home has paid the full amount of tax due under this chapter and thereafter during the current year permanently removes it from this state to a state in which he is required to pay a tax or fee on it that is substantially the same as that imposed by this chapter, upon written proof that he has paid another tax or fee, he shall be granted a refund of a part of the tax paid under this chapter, but not including any penalty paid, which refund shall be computed by dividing the amount of tax paid by the number of months of the year for which it was paid and multiplying the quotient by the number of calendar months remaining in the year during which the mobile home was permanently situated outside of this state. The owner shall file an application for refund, together with proof that a similar tax has been paid, with the director of tax equalization. Upon approval of the director of tax equalization, the county treasurer shall refund the amount approved and the county auditor and treasurer shall charge the refund against the taxing districts to which the collection was credited.

2. If the owner of any mobile home has paid, through mistake or otherwise, a greater amount of tax or penalty than was justly due, upon written application he shall be granted a refund of the unjust portion paid after approval by the director of tax equalization. The county auditor and treasurer shall charge all refunds against the taxing districts to which the collection was credited.
3. If the owner of a mobile home has paid the full amount of taxes due under this chapter, and thereafter during the current year such mobile home has been demolished or destroyed beyond repair by fire, windstorm, or flood, the owner shall be entitled to a refund as set forth in subsection 1 of this section.
4. Application for refunds under the provisions of this chapter shall not be subject to the provisions of chapter 57-23.

Approved March 30, 1971

## CHAPTER 578

HOUSE BILL NO. 1177  
(Streibel)

DISTRIBUTING PERSONAL PROPERTY  
REPLACEMENT FUNDS

AN ACT to amend and reenact section 57-58-01 of the North Dakota Century Code, relating to the dates and the formula for the distribution of personal property tax replacement moneys to political subdivisions, and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 57-58-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-58-01. DISTRIBUTION TO COUNTIES AND LOCAL SUBDIVISIONS.) It is hereby provided that any political subdivision which has an existing bonded indebtedness for which a tax levy must be made in 1970 or any year thereafter, shall reduce its levy in each such year for current operating purposes by the amount which its tax levy on taxable property in that year for retirement of the bonded indebtedness is increased because of the exemption of personal property by subsection 25 of section 57-02-08. On or before February 1, 1971, the county auditor of each county shall certify to the state tax commissioner the total amount of taxes levied in the year 1968 for the state, county, cities, park boards, school districts, airport authorities, townships, and all other units of government having the authority to levy taxes, and levies voted by the people, new or present levies increased by legislative action of such county on those items of personal property exempt under the provisions of section 57-02-08, and, in addition, the total valuation of real estate and taxes levied on real estate for the year 1968. On or before March 1, 1971, and each year thereafter, the state tax commissioner shall certify for payment to the state treasurer an amount for payment by the state treasurer to each county equal to fifty percent of the amount determined to be due such county based upon the personal property taxes levied in the year 1968 for the political subdivisions herein mentioned on the items of personal property exempt from the personal property tax under the provisions of section 57-02-08, the per capita school tax under the provisions of section 57-15-23, and the grain tax under the provisions of chapter 57-03, together with any adjustments to be made according to the manner hereinafter provided. The remaining fifty percent due each county shall be paid on or before June 1, 1971,

and each year thereafter. Within sixty days after the receipt of the revenue as provided by this section, the county treasurer shall allocate and remit to the county, cities, park boards, school districts, airport authorities, townships, and all other units of government having the authority to levy taxes that amount of revenue which is received from the state in the same ratio as he would have distributed the revenue from the personal property tax, adjusting such amount by any increase or decrease in real property taxes as levied by each taxing authority according to the formula hereinafter provided. Any amount that would be apportioned and credited to the retirement of a bonded indebtedness existing in 1970 for which a tax levy was made in 1970 and in any year thereafter, shall be credited to the general fund of the political subdivision. In the years after 1971, payments to the counties under this section shall be made based upon ninety-five percent of such payment for 1971 together with a growth factor which shall be based upon the dollar amount of increase or decrease in real property taxes levied within each county. For each seven-dollar increase in real property taxation within a county, the state shall contribute an additional one dollar over that amount which equals ninety-five percent of such payment in the base year. For each seven-dollar decrease in real property taxation within a county, the state shall contribute one dollar less than that amount which equals ninety-five percent of such payment in the base year.

On or before March 1, 1971, and each year thereafter, the state tax commissioner shall certify to the state treasurer the amount determined to be due to the state based upon the personal property taxes levied in the year 1968 for the North Dakota state medical center. In the years after 1971 the amount so certified shall be computed in accordance with the formula provided in this section for computing the amounts to be certified and paid to the counties. The state treasurer upon receiving the certification from the tax commissioner shall transfer from the general fund to the credit of the North Dakota state medical center the amount so certified.

Any political subdivision which levied taxes on taxable property in the year 1970 for a specific fund or purpose for which a levy was not made by it in the year 1968 shall be entitled to a distribution of revenue from the state in the year 1971 for any such levy. The amount of such distribution shall be determined as follows: the county auditor shall certify to the state tax commissioner as soon as possible after the effective date of this Act the amount of each such levy made by and spread for each political subdivision on taxable real property in the county in the year 1970; the tax commissioner shall forthwith determine the correctness of such amounts and certify to the state treasurer for immediate payment to the county an amount that is determined by dividing the total of such levies made and spread in 1970 on taxable real property in the county by the growth factor that is provided in the first paragraph of this section; the county treasurer within fifteen days after



the receipt of such revenue from the state treasurer shall allocate and remit to each political subdivision its proportionate amount of that revenue.

If the classification of any property for taxation purposes is changed from real to personal property or from personal to real property because of legislative or judicial action, the county auditor of the county in which the property is located shall forthwith certify to the tax commissioner the amount of real estate taxes or personal property taxes that was levied on all such property by each taxing district in the year 1968 and in any other year thereafter that the tax commissioner may request. The tax commissioner, in determining the amount to be certified to the state treasurer for payment to the county pursuant to this section, shall adjust the amounts of taxes certified by the county auditor as levied on real property and on personal property in 1968 and in any other year as may be necessary by adding to or subtracting from each such amount the taxes on the reclassified property so that the distribution by the state to the county will be determined as though such property had been taxed in 1968 and all later years in the classification into which it was reclassified.

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

Approved March 30, 1971

CHAPTER 579

HOUSE BILL NO. 1521  
(Dornacker)

REDUCTION OF CERTAIN TAX LEVIES

AN ACT to provide that county auditors shall reduce certain levies for political subdivisions for monies received for personal property tax replacement.

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

SECTION 1. COUNTY AUDITORS TO REDUCE CERTAIN LEVIES.)  
If any political subdivision which has an existing bonded indebtedness for which a tax levy must be made does not reduce its levy for current operating purposes as provided in section 57-58-01, the county auditor of the county in which the political subdivision is located shall, after receiving the budget for such political subdivision, reduce the levy for current operating purposes by the amount which such political subdivision's tax levy on taxable property for the retirement of bonded indebtedness is increased because of the exemption of personal property from taxation.

Approved March 17, 1971