

TAXATION

CHAPTER 506

HOUSE BILL NO. 1408
(Strinden)

SALES AND USE TAX COLLECTION AGREEMENTS

AN ACT to create and enact a new section to chapter 57-01 of the North Dakota Century Code, relating to contractual agreements for collection of sales and use tax by the tax commissioner in behalf of incorporated home rule cities.

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

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

The governing body of any incorporated city that has adopted the home rule provisions of chapter 40-05.1 and the tax commissioner are hereby authorized and empowered to enter into contractual agreements whereby the tax commissioner shall have authority to collect any sales and use taxes assessed by such incorporated city and remit the same to such incorporated city. Such agreement may also provide for an agreed amount to be allowed the tax commissioner for services rendered in connection with such collections.

Approved April 21, 1977

CHAPTER 507

SENATE BILL NO. 2235
(Committee on Finance and Taxation)
(At the request of the Tax Department)

CONFIDENTIALITY OF TAX RETURNS

AN ACT to create and enact two new sections to chapter 57-01 and a new section to chapter 57-37.1 of the North Dakota Century Code, relating to confidentiality of tax information obtained from the United States secretary of the treasury and to North Dakota estate and income tax returns; and to amend and reenact subsection 1 of section 57-38-34 and subsection 1 of section 57-38-57 of the North Dakota Century Code, relating to income tax returns and the confidentiality thereof.

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

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

TAX INFORMATION FURNISHED BY UNITED STATES SECRETARY OF THE TREASURY - PENALTY FOR DISCLOSURE.) Except as authorized by the United States Internal Revenue Code of 1954, it shall be unlawful for the state tax commissioner or any of his employees or legal representatives to disclose to any person any return or return information opened to inspection by or disclosed by the United States secretary of the treasury pursuant to section 6103 of the United States Internal Revenue Code of 1954 to him or any of his employees or legal representatives for the administration of the tax laws administered by him. For the purposes of this section, the terms "return" and "return information" shall have the same meanings as are provided in section 6103 of the United States Internal Revenue Code of 1954, and "state tax commissioner" and "any of his employees or legal representatives" shall include a former state tax commissioner and a former employee or legal representative of the state tax commissioner. Any person who violates this section shall be guilty of a class C felony as provided in section 12.1-13-01.

SECTION 2.) A new section to chapter 57-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

USE OF TAX INFORMATION TO ADMINISTER TAX LAWS.) For the

purpose of properly administering the tax laws of this state, information filed by or on behalf of a person with the tax commissioner pursuant to a tax law of this state and any other information relating to that person which was either obtained by the tax commissioner pursuant to that tax law or furnished to him pursuant to section 6103 of the United States Internal Revenue Code of 1954 may be used by the tax commissioner to determine or enforce the tax liability, if any, of that person under any other tax law of this state that is administered by the tax commissioner.

SECTION 3.) A new section to chapter 57-37.1 of the 1975 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

SECURITY AS TO RETURNS.) The secrecy of returns shall be guarded except as follows:

1. Except when otherwise directed by judicial order or as provided in section 57-37.1-08 or as is otherwise provided by law, the tax commissioner, his deputies, agents, clerks, and other officers and employees, shall not divulge nor make known, in any manner, the particulars set forth or disclosed in any return required under this chapter, including the copy or any portion thereof or information reflected in the federal estate tax return that is required to be attached to, furnished with, or included in the state estate tax return. This provision shall not be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular returns, and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the return for any estate if an action or proceeding to set aside or review the tax based thereon is brought by the personal representative of the estate or any other person or if an action or proceeding is instituted by the tax commissioner to recover any tax, penalty, or interest imposed by this chapter.
2. The tax commissioner, however, may permit the commissioner of internal revenue of the United States, or the proper officer of any state imposing a tax similar to that imposed by this chapter, or the authorized representative of either such officer, to inspect the estate tax return for any estate, or may furnish to such officer or his authorized representative an abstract of the return for any estate, or supply him with information concerning any item contained in any return, or disclosed by the report of any investigation of the estate, but such permission shall be granted, or such information furnished, to such officers or representatives only if the statutes of the United States, or of such other state, as the case may be, grant substantially similar privileges to the proper

officer of this state charged with the administration of this chapter.

SECTION 4. AMENDMENT.) Subsection 1 of section 57-38-34 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Returns shall be in such form as the tax commissioner from time to time may prescribe and may include the requirement that a copy of the taxpayer's federal income tax return or a portion thereof or information reflected thereon be attached to, furnished with, or included in the taxpayer's state income tax return, but the taxpayer's state income tax return must contain a method for the taxpayer to identify the school district in which he resides, and shall be filed with the tax commissioner at his office in Bismarck, North Dakota. The tax commissioner shall prepare blank forms for use in making returns and shall cause them to be distributed throughout this state, but failure to receive or secure a form shall not relieve a taxpayer from making a return.

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

1. Except when otherwise directed by judicial order, or as is otherwise provided by law, the tax commissioner, his deputies, agents, clerks, and other officers and employees, shall not divulge nor make known, in any manner, the amount of income, or any particulars set forth or disclosed in any report or return required under this chapter, including the copy or any portion thereof or information reflected in the taxpayer's federal income tax return that the tax commissioner may require to be attached to, furnished with, or included in the taxpayer's state income tax return. This provision shall not be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns, and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this chapter. Reports and returns shall be preserved for three years and thereafter until the tax commissioner orders them to be destroyed.

Approved March 12, 1977

CHAPTER 508

SENATE BILL NO. 2427
(Lips, Freed, Hoffner, Lashkowitz)

RELIGIOUS DWELLING UNIT PROPERTY TAX EXEMPTION

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

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

SECTION 1. AMENDMENT.) Subsection 8 of section 57-02-08 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. All buildings and contents thereof belonging to institutions of public charity, including public hospitals and nursing homes licensed pursuant to section 23-16-01 under the control of religious or charitable institutions, used wholly or in part for public charity, together with the land actually occupied by such institutions not leased or otherwise used with a view to profit, and all moneys and credits appropriated solely to sustaining and belonging exclusively to such institutions; and this includes any dormitory, dwelling, or residential-type structure, together with necessary land on which such structure is located, owned by a religious or charitable organization recognized as tax exempt under Section 501 (c) (3) of the United States Internal Revenue Code which is occupied by members of said organization who are subject to a religious vow of poverty and devote and donate substantially all of their time to the religious or charitable activities of the owner;

Approved March 31, 1977

CHAPTER 509

SENATE BILL NO. 2146
(Orange)

DISABLED VETERAN PROPERTY TAX EXEMPTION

AN ACT to amend and reenact subsection 20 of section 57-02-08 of the North Dakota Century Code, relating to property tax exemptions for certain disabled veterans.

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

SECTION 1. AMENDMENT.) Subsection 20 of section 57-02-08 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20. Fixtures, buildings, and improvements up to the amount of valuation specified, when owned and occupied as a homestead, as hereinafter defined, by any of the following persons:
 - a. A paraplegic disabled veteran of the United States armed forces or any veteran who has been awarded specially adapted housing by the veterans' administration, or his unremarried widow if such veteran is deceased, provided that this exemption shall not exceed twenty thousand dollars of assessed valuation.
 - b. A disabled veteran of the United States armed forces who was discharged under honorable conditions or who has been retired from the armed forces of the United States with an armed forces service-connected disability of fifty percent or greater, or his unremarried widow if such veteran is deceased, if the income of such veteran and his wife, or if such veteran is deceased the income of his unremarried widow, in the calendar year prior to the year for which the exemption is claimed did not exceed five thousand dollars from all sources exclusive of any compensation or pension for service-connected disability from the United States government, provided that this exemption shall not exceed eight thousand dollars of assessed valuation.

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

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

Approved April 19, 1977

CHAPTER 510

SENATE BILL NO. 2346
(Erdman, Jacobson, Redlin, Shablow, Wright)

HOMESTEAD CREDIT

AN ACT to amend and reenact section 57-02-08.1 of the North Dakota Century Code, relating to the homestead credit; and to provide effective dates.

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

SECTION 1. AMENDMENT.) Section 57-02-08.1 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. Any person sixty-five years of age or older in the year in which the tax was levied, or any person who is permanently and totally disabled as certified by a physician selected by the local governing body, with an income of eight thousand dollars or less per annum from all sources, including the income of any person dependent upon him, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, shall receive a reduction in the assessment on the assessed valuation on his homestead as defined in section 47-18-01, except that this exemption shall apply to any person who otherwise qualifies under the provisions of this subsection regardless of whether or not such person is the head of a family. The exemption to which any person may be entitled shall be determined according to the following schedule:
 - a. If the person's income is not in excess of three thousand five hundred dollars, a reduction of one hundred percent of the assessed valuation of the person's homestead up to a maximum reduction of four thousand dollars of assessed valuation.
 - b. If the person's income is in excess of three thousand five hundred dollars and not in excess of four thousand

five hundred dollars, a reduction of eighty percent of the assessed valuation of the person's homestead up to a maximum reduction of three thousand two hundred dollars of assessed valuation.

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

In no case shall a husband and wife who are living together both be entitled to the credit as provided for in this subsection upon their homestead. The provisions of this subsection shall not reduce the liability of any person for special assessments levied upon his property. Any person eligible for the exemption herein provided shall sign a statement that he is sixty-five years of age or older or is permanently and totally disabled and that such income, including that of any dependent, as determined in this chapter does not exceed eight thousand dollars per annum. The term "dependent" shall include the spouse, if any, of the person claiming the exemption. The assessor shall attach such statement to the assessment sheet and shall show the reduction on the assessment sheet.

2. Any person sixty-five years of age or older, or any person who is permanently and totally disabled as certified by a physician selected by the local governing body, with an income of eight thousand dollars or less per annum from all sources, including the income of any person dependent upon him, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, and who rents living quarters shall be eligible for refund for that part of his annual rent which is deemed by this subsection to constitute

the payment of property tax and which is further deemed to represent a burdensome share of his income. For the purpose of this subsection, twenty percent of the annual rent, exclusive of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement, shall be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds four percent of the annual income of a qualified applicant, said applicant shall receive a refund from the state general fund for that amount in excess of four percent of his annual income, but such refund shall not be in excess of one hundred seventy-five dollars. In no case shall a husband and wife who are living together both be entitled to the refund as provided for in this subsection. Each application for refund under this subsection shall be made to the tax commissioner before the first day of June of each year by the person claiming the refund. The tax commissioner shall certify to the state treasurer the amount of the refund due, if any, and the state treasurer shall issue the refund from the state general fund to the applicant. In no case shall this subsection apply to rents or fees paid by a person to a nursing home licensed pursuant to section 23-16-01 if that nursing home has been declared exempt from property taxation.

3. All forms necessary to effectuate this section shall be prescribed and designed by the tax commissioner who shall annually distribute an adequate supply of same to each county director of tax equalization. The county directors of tax equalization shall make these forms available upon request.

SECTION 2. EFFECTIVE DATES.) The provisions of this Act shall be effective for assessments of property made on or after January 1, 1977, and for payments for rent for periods beginning on or after January 1, 1977.

Approved April 20, 1977

CHAPTER 511

HOUSE BILL NO. 1284
(Jacobson, Meiers)

INCOME DETERMINATION FOR HOMESTEAD CREDIT

AN ACT to create and enact a new subsection to section 57-02-08.1 of the North Dakota Century Code, to exclude medical expenses in determining income for eligibility under the homestead credit law.

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

SECTION 1.) A new subsection to section 57-02-08.1 of the 1975 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

In determining a person's income for eligibility under this section, the amount of medical expenses actually incurred by that person or any person dependent upon him and not compensated for by insurance or otherwise shall be deducted. For purposes of this section, the term "medical expenses" shall have the same meaning as it has for state income tax purposes.

Approved April 9, 1977

CHAPTER 512

HOUSE BILL NO. 1401
(Laughlin, Gackle)

PROPERTY ASSESSMENT BY COUNTIES

AN ACT to amend and reenact subsection 6 of section 57-02-11 of the North Dakota Century Code, relating to the frequency of assessment of real property by cities and counties.

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

SECTION 1. AMENDMENT.) Subsection 6 of section 57-02-11 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Notwithstanding the other provisions of this section, the governing body of any city or county may by resolution provide that all real property within the city or county shall be listed and assessed annually with reference to its value on February first of each year. The assessments of real property assessed annually shall be equalized and corrected annually in the manner and subject to the same requirements as are provided for equalizing the assessments of real property that is listed and assessed every odd-numbered year.

Approved March 23, 1977

CHAPTER 513

HOUSE BILL NO. 1103
(Gackle)

**ASSESSOR'S COMPENSATION FOR MEETING
WITH COUNTY AUDITOR**

AN ACT to amend and reenact section 57-02-31 of the North Dakota Century Code, relating to the furnishing of assessment books to county assessors by the county auditor.

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

SECTION 1. AMENDMENT.) Section 57-02-31 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 12, 1977

CHAPTER 514

SENATE BILL NO. 2191
(Committee on Finance and Tax)
(At the request of the State Tax Department)

ASSESSMENT OF GAME AND FISH LANDS

AN ACT to amend and reenact section 57-02.1-03 of the North Dakota Century Code, relating to payments in lieu of real estate taxes.

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

SECTION 1. AMENDMENT.) Section 57-02.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02.1-03. ASSESSMENT OF PROPERTY - NOTICE OF COUNTY AUDITORS.) All property subject to valuation under this chapter shall be assessed and valued for the purpose of making the payments herein provided for, in the same manner as other real property in this state is assessed and valued for tax purposes, except that improvements to any real property shall not be considered in such valuation. The county auditors of the counties in which such property is located, prior to June thirtieth of each year, shall give notice in writing to the state game and fish commissioner and state tax commissioner of the value placed upon the property subject to valuation by the county boards of equalization.

Approved March 12, 1977

CHAPTER 515

HOUSE BILL NO. 1368
(Kelly, Lardy, G. Martin)

RESIDENTIAL BUILDING IMPROVEMENT EXEMPTION

AN ACT to amend and reenact sections 57-02.2-01, 57-02.2-02, and 57-02.2-03 of the North Dakota Century Code, to provide for the exemption of improvements to residential buildings.

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

SECTION 1. AMENDMENT.) Section 57-02.2-01 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02.2-01. DECLARATION AND FINDING OF PUBLIC PURPOSE.) The legislative assembly hereby declares and finds that the present method of assessment and taxation of real property discourages the investment of private capital in the rehabilitation and remodeling of commercial and residential buildings and structures with the result that such properties have been allowed by their owners to decay, become in need of repair, modernization, and replacement, and that such conditions have resulted in a decreased tax base. The legislative assembly further finds that it is in the public interest and for the welfare of the state of North Dakota, its political subdivisions, and its citizens to encourage the investment of private capital in improvements to commercial and residential buildings and structures, thereby encouraging the production of wealth, improving the volume of employment, enhancing living conditions, and preserving and increasing the property tax base. It is the intent of the legislative assembly that the exemptions from taxation provided for in this chapter provide an alternative to the property tax exemptions provided for in chapters 40-57 and 40.57.1.

SECTION 2. AMENDMENT.) Section 57-02.2-02 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02.2-02. IMPROVEMENT DEFINED.) In this chapter, unless the context or subject matter otherwise requires, the term "improvement" means the renovation, remodeling, or alteration, but not the replacement, of an existing building or structure for use for commercial or residential purposes. An improvement for residential purposes shall

be limited to a building or structure at least twenty-five years old. An addition constructed to an existing building or structure to enlarge it shall not be regarded as an improvement for the purposes of this chapter.

SECTION 3. AMENDMENT.) Section 57-02.2-03 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02.2-03. TAX EXEMPTION FOR IMPROVEMENTS TO COMMERCIAL AND RESIDENTIAL BUILDINGS AND STRUCTURES - PROPERTY OWNER'S CERTIFICATE.) Improvements to commercial and residential buildings and structures as defined in this chapter may be exempt from assessment and taxation for three years from the date of commencement of making the improvements. The exemption provided by this chapter shall apply only to that part of the valuation resulting from the improvements which is over and above the assessed valuation, exclusive of the land, placed upon the building or structure for the last assessment period immediately preceding the date of commencement of the improvements. Any person, corporation, association, or organization owning real property and claiming an exemption pursuant to the provisions of this chapter shall file with the assessor a certificate setting out the facts upon which the claim for exemption is based. The assessor shall furnish a copy of the certificate to the county director of tax equalization. The assessor shall determine whether the improvements qualify for the exemption, and if he determines that the exemption should apply, upon approval of the governing body, the exemption shall be valid for the three-year period and shall not terminate upon the sale or exchange of the property but shall be transferable to subsequent owners for such three-year period. If the certificate is not filed as herein provided, the assessor shall regard the improvements as nonexempt and shall assess them as such. The decision of the assessor shall be subject to correction, abatement, and appeal in the manner provided by law for other assessments.

Approved March 31, 1977

CHAPTER 516

SENATE BILL NO. 2231
(Committee on Finance and Taxation)
(At the request of the Tax Department)

TENTATIVE ASSESSMENT OF RAILROAD PROPERTY

AN ACT to create and enact a new section to chapter 57-05 of the North Dakota Century Code, to provide for a tentative assessment of railroad operating property and notice of hearing thereon.

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

SECTION 1.) A new section to chapter 57-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

TENTATIVE ASSESSMENT - NOTICE OF HEARING.)

1. The tax commissioner, on or before July fifteenth of each year, shall ascertain and determine the value of, and a tentative assessment of, all operative property of any company required to be assessed under the provisions of this chapter. Such determination of value shall be made for the guidance of the state board of equalization in assessing such property at its annual meeting in August. In making such determination of value, the tax commissioner shall be governed by the rules laid down by this chapter.
2. The tax commissioner shall give ten days' notice by mail to each company, or its representative in North Dakota, of the amount of its tentative assessment, and shall appoint a time and place between the first Tuesday of August and the first day of September, at which each company shall be entitled to present evidence before the state board of equalization relating to the value of the property of the company.

Approved March 17, 1977

CHAPTER 517

HOUSE BILL NO. 1174
(Rau)

COUNTY VETERAN'S OFFICER MILL LEVY

AN ACT to amend and reenact section 57-15-06.4 of the North Dakota Century Code, relating to the levy authorized for county veterans' service officers' salary, traveling and office expenses.

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

SECTION 1. AMENDMENT.) Section 57-15-06.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.4. LEVY AUTHORIZED FOR COUNTY VETERANS' SERVICE OFFICERS' SALARY, TRAVELING AND OFFICE EXPENSES.) The county commissioners of each county may levy annually a tax of not to exceed three-fourths mill on the dollar of the net assessed taxable valuation of the county, to provide a fund, for the payment of the salary, traveling and office expenses of the county veterans' service officer authorized to be appointed by section 37-14-18. Such levy shall not be limited by the provisions of section 57-15-06.

Approved April 20, 1977

CHAPTER 518

HOUSE BILL NO. 1477
(Berger)

COUNTY MILL LEVY FOR PLANNING PURPOSES

AN ACT to provide a county mill levy for planning purposes.

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

SECTION 1. TAX LEVY FOR PLANNING PURPOSES.) The board of county commissioners, when authorized to do so by sixty percent of the electors voting upon the question in a regular or special election called by the county commissioners, may levy up to three mills on the net taxable assessed valuation for planning purposes. Such levy shall be in addition to and not restricted by any levy limitations prescribed by law. The proceeds of a levy pursuant to this section shall be used only for county planning purposes, and shall not be used to directly fund a regional planning council. However, proceeds of a levy pursuant to this Act may be used by the levying county to enter into a contract with a regional planning council for single county planning services for the levying county.

Approved April 20, 1977

CHAPTER 519

HOUSE BILL NO. 1084
(G. Larson)

SCHOOL DISTRICT LEVY ELECTION PETITIONS

AN ACT to amend and reenact section 57-15-14 of the North Dakota Century Code, relating to petitions for school district tax levy limitation elections.

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

SECTION 1. AMENDMENT.) Section 57-15-14 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-14. TAX LEVY LIMITATIONS IN SCHOOL DISTRICTS.) The aggregate amount levied by any school district, except the Fargo school district, shall not exceed such amount as will be produced by a levy of twenty-four mills on the dollar of the net assessed valuation of the district, except that:

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

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

Approved April 19, 1977

CHAPTER 520

HOUSE BILL NO. 1158
(Unhjem)

**SCHOOL BUILDING FUND USE FOR VOCATIONAL
EDUCATION FACILITIES**

AN ACT to amend and reenact subsection 1 of section 57-15-17 of the North Dakota Century Code, relating to the disposition of school building funds and providing for the use of such funds for vocational education facilities financed under the Municipal Industrial Development Act.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 57-15-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. a. All revenue accruing from appropriations or tax levies for a school building fund together with such amounts as may be realized for building purposes from all other sources, shall be placed in a separate fund known as a school building fund, and shall be deposited, held, or invested in the same manner as the sinking funds of such school district or in the purchase of shares or securities of federal savings and loan associations or state-chartered building and loan associations within the limits of federal insurance.
- b. Such funds shall be used solely and exclusively for any of the following purposes:
 - (1) The erection of new school buildings, or additions to old school buildings, or the making of major repairs to existing buildings.
 - (2) The payment of rentals upon contracts with the state school construction board.
 - (3) The payment of rentals upon contracts with municipalities for vocational education facilities financed pursuant to chapter 40-57.
 - (4) Within the limitations of school plans as provided in subsection 2 of section 57-15-16.

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- c. Such funds shall be paid out by the custodian thereof only upon order of the school board, signed by the president and the clerk of said school district, and such order must recite upon its face the purpose for which such payment is made;

Approved March 11, 1977

CHAPTER 521

SENATE BILL NO. 2550
(Committee on Delayed Bills)
(At the request of Senator Naaden)

SCHOOL DISTRICT LEVY FOR UNEMPLOYMENT COMPENSATION TAXES

AN ACT to authorize a school district mill levy for federal unemployment compensation taxes; and to provide an expiration date.

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

SECTION 1. SCHOOL DISTRICT LEVY FOR UNEMPLOYMENT COMPENSATION TAXES.) The school board of any school district, upon the passage of a proper resolution, may levy a tax of not to exceed two mills on the net taxable assessed valuation of the school district for the purpose of covering the cost of federal unemployment compensation taxes. The mill levy authorized by this section shall be in addition to any mill levy limitations provided by law.

SECTION 2. EXPIRATION DATE.) The provisions of this Act shall remain in effect through June 30, 1979, and shall thereafter be of no force and effect.

Approved April 20, 1977

CHAPTER 522

HOUSE BILL NO. 1306
(McGauvran, Horgan, Meyer, Erickson)

SCHOOL BUILDING RENTAL LEVY

AN ACT to provide for a mill levy for the rental of buildings, property, or classroom space by school districts.

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

SECTION 1. TAX LEVY FOR RENTAL OF PROPERTY.) Any school district upon approval by its governing board may levy taxes annually, not in excess of five mills on the net taxable assessed valuation of the district, for the rental or leasing of buildings, property, or classroom space. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law. Minimum state standards for health and safety applicable to school building construction shall apply to any rented or leased buildings, property, or classroom space.

Approved March 12, 1977

CHAPTER 523

HOUSE BILL NO. 1248
(Opedahl)

TOWNSHIP SPECIAL ROAD FUND MAXIMUM

AN ACT to amend and reenact section 57-15-19.2 of the North Dakota Century Code, relating to township special road funds.

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

SECTION 1. AMENDMENT.) Section 57-15-19.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-19.2. TOWNSHIP SUPERVISORS MAY TRANSFER FUNDS INTO SPECIAL ROAD FUND - LIMITATIONS - USE.) The board of supervisors, at the time of the annual township meeting, upon resolution, may transfer or set aside a part or all of any funds into a special road fund, which fund shall be separate and distinct from all other funds. Such special road fund shall not exceed the sum of fifteen thousand dollars for any one congressional township. The special road fund may be expended, at the option of the board of supervisors, for the purpose of road construction, graveling, or surfacing.

Approved March 12, 1977

CHAPTER 524

HOUSE BILL NO. 1128
(Rued)

DEADLINE FOR CERTIFYING TAXES

AN ACT to amend and reenact section 57-15-31.1 of the North Dakota Century Code, relating to the date by which a taxing district must certify taxes or submit budget amendments.

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

SECTION 1. AMENDMENT.) Section 57-15-31.1 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-31.1. DEADLINE DATE FOR AMENDING BUDGETS AND CERTIFYING TAXES.) No taxing district shall certify any taxes or amend its current budget and no county auditor shall accept a certification of taxes or amended budget after the tenth day of October of each year if such certification or amendment results in a change in the amount of tax levied.

Approved March 17, 1977

CHAPTER 525

SENATE BILL NO. 2100
(Thane)

FIRE DEPARTMENT RESERVE FUND LEVY

AN ACT to amend and reenact section 57-15-42 of the North Dakota Century Code, relating to a mill levy for city fire departments.

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

SECTION 1. AMENDMENT.) Section 57-15-42 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 4, 1977

CHAPTER 526

HOUSE BILL NO. 1480
(Reed)

COUNTY AMBULANCE SERVICE LEVY

AN ACT to amend and reenact section 57-15-50 of the North Dakota Century Code, relating to the county levy for ambulance service; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 57-15-50 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-50. LEVY AUTHORIZED FOR COUNTY AMBULANCE SERVICE.) Upon petition of ten percent of the number of qualified electors of the county voting in the last election for governor or upon its own motion, the board of county commissioners of each county shall levy annually a tax of not to exceed one-half mill on the net taxable assessed valuation of the county, for the purpose of subsidizing county ambulance services, provided that such tax shall be approved by a majority of the voters of the county at a regular or special countywide election. The mill levy provided by this section shall not be subject to the mill levy limitations for general and special county purposes contained in section 57-15-06.

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

Approved March 31, 1977

CHAPTER 527

HOUSE BILL NO. 1287
(Jacobson, McGauvran, Schindler, Erickson)

DISTRICT-OWNED SCHOOL BUS LEVY

AN ACT to allow school districts to levy for the cost of district-owned buses.

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

SECTION 1. SCHOOL DISTRICT MAY LEVY FOR DISTRICT-OWNED SCHOOL BUS COSTS.) Upon resolution of the school board and approval of sixty percent of the voters in the school district at the next election, a school district may levy an amount not to exceed five mills for the purpose of paying for the cost of district-owned school buses. Such levy may be discontinued by resolution of the school board, or in the same manner as it was established. The levy provided in this section shall be over and above any mill levy limitations provided by law.

Approved March 17, 1977

CHAPTER 528

HOUSE BILL NO. 1088
(Powers)

STATE BONDING FUND COVERAGE FOR SENIOR
CITIZENS ORGANIZATIONS

AN ACT to create and enact a new subsection to section 57-15-56 of the North Dakota Century Code, relating to nonprofit senior citizens' organizations obtaining bonding coverage through the state bonding fund; and declaring an emergency.

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

SECTION 1.) A new subsection to section 57-15-56 of the North Dakota Century Code is hereby created and enacted to read as follows:

The officers or employees of a nonprofit corporation under contract with the board of county commissioners or the governing body of the city, in regard to the manner in which the funds shall be expended and the services are to be provided, are authorized to receive, and shall be eligible for, bonding coverage through the state bonding fund.

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, 1977

CHAPTER 529

SENATE BILL NO. 2405
(Strinden, Redlin)

**DELINQUENT PERSONAL PROPERTY TAX LISTS
NO LONGER PUBLISHED**

AN ACT to amend and reenact section 57-22-02.1 of the North Dakota Century Code, relating to the county auditor publishing a list and maintaining a record of delinquent personal property taxes; and eliminating the requirement of publication in the official county newspaper.

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

SECTION 1. AMENDMENT.) Section 57-22-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-02.1. COUNTY AUDITOR TO MAINTAIN RECORD OF DELINQUENT PERSONAL PROPERTY TAXES.) The county auditor, upon receiving a list of the delinquent personal property taxes as required by law, shall cause the same to be entered in individual accounts by taxpayers in a record to be kept in his office. Such record shall show the names of delinquent taxpayers alphabetically arranged, the amount of the tax of each, for what year or years, and all other information as shown on the original tax list. Subsequent payments shall be posted from duplicate copies of tax receipts transmitted by the treasurer and sheriff.

Approved March 23, 1977

CHAPTER 530

HOUSE BILL NO. 1210
(Committee on Finance and Taxation)
(At the request of the Board of Higher Education)

REPEAL OF PERSONAL PROPERTY TAX DEBT DEDUCTIONS

AN ACT to repeal sections 57-22-26, 57-22-27, and 57-22-28 of the North Dakota Century Code, relating to the deduction of personal property taxes from salaries, wages, and claims against public funds.

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

SECTION 1. REPEAL.) Sections 57-22-26, 57-22-27, and 57-22-28 of the North Dakota Century Code are hereby repealed.

Approved March 12, 1977

CHAPTER 531

HOUSE BILL NO. 1446
(Fleming)

TAX ABATEMENT PROCEDURE

AN ACT to amend and reenact sections 57-23-05 and 57-23-06 of the North Dakota Century Code, relating to applications for abatement or refund and to hearings on abatement proceedings.

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

SECTION 1. AMENDMENT.) Section 57-23-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Any person having any estate, right, title, or interest in or lien upon any real or personal property who claims that the assessment made or the tax levied against the same is excessive or illegal, in whole or in part, shall be entitled to make an application for abatement, refund, or compromise, as the case may be, and have such application granted if the facts upon which the application is based bring it within the provisions of this chapter for abatement, refund, or compromise. In addition, if an abatement is based upon any of the grounds specified in section 57-23-04 and if the application for abatement will not result in a refund of tax or a compromise of a tax, the abatement application may be signed and submitted by either the county auditor or the assessor who made the assessment resulting in the tax specified in the abatement application.

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

57-23-06. HEARING ON APPLICATION.)

1. Within ten days after receiving an application for abatement, the city auditor or the township clerk shall give the applicant a notice of a hearing to be held before the governing body of the city or township, or such other committee as it may designate, in which the assessed property is located. Said hearing shall be set for no more than sixty days after the date of the notice of hearing, and in any event, shall be held before the recommendations provided for in subsection 2 of this section are made. The applicant may waive, in writing, the hearing before such governing body or designated committee at any time before the hearing. The provisions of this subsection shall not apply to applications for abatement pursuant to section 57-02-08.2.
2. At the next regular meeting of the board of county commissioners following the filing of an application for abatement, the applicant may appear, in person or by his 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.

Approved April 9, 1977

CHAPTER 532

SENATE BILL NO. 2028
(Legislative Council)
(Interim Committee on Finance and Taxation)

COOPERATIVE TRANSMISSION LINE TAX

AN ACT to amend and reenact subsection 2 of section 57-33.1-02 of the North Dakota Century Code, relating to the taxation of large cooperative electrical transmission lines.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 57-33.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. In addition to the tax imposed under subsection 1, the tax commissioner shall levy a tax upon transmission lines of two hundred thirty kilovolts or larger, owned by cooperatives subject to the provisions of this chapter and chapter 57-60 and carrying electrical energy the gross receipts or production of which have been subjected to the tax imposed by subsection 1 of this section or subsection 2 of section 57-60-02, at the rate of two hundred twenty-five dollars per mile or fraction thereof of such lines located in this state. The tax imposed by this subsection shall be in lieu of any property tax on such lines and any substation used in delivering electrical energy, the gross receipts or production of which have been subjected to the tax imposed by subsection 1 of this section or subsection 2 of section 57-60-02. The proceeds derived from the taxing of transmission lines shall be allocated to each county in which such transmission lines are located in the proportion that the miles of such lines in a county bear to the total miles of such transmission lines located within this state. Revenues received by each county shall be deposited in the county general fund.

Approved March 12, 1977

CHAPTER 533

SENATE BILL NO. 2294
(Goodman, Freed)

ESTATE TAX CHANGES

AN ACT to amend and reenact subsection 8 of section 57-37.1-01 and sections 57-37.1-03, 57-37.1-04, and 57-37.1-07 of the North Dakota Century Code, relating to the exemption used in determining the North Dakota taxable estate, rates applied to a taxable estate, interest, federalization; and to provide for an effective date.

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

SECTION 1. AMENDMENT.) Subsection 8 of section 57-37.1-01 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "United States Internal Revenue Code of 1954, as amended" means the United States Internal Revenue Code of 1954 as amended to and including December 31, 1976.

SECTION 2. AMENDMENT.) Section 57-37.1-03 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37.1-03. DETERMINATION OF NORTH DAKOTA TAXABLE ESTATE.) The North Dakota taxable estate of a decedent shall be determined as follows:

1. If all of the property included in the federal gross estate of a decedent has a situs in North Dakota, the North Dakota taxable estate shall be the federal taxable estate except:
 - a. The exemption to be deducted from the value of the gross estate shall be two hundred thousand dollars.
 - b. The federal estate taxes paid shall be deducted.
 - c. The North Dakota taxable estate shall not include the value of any gift made by the decedent more than three years prior to death.
2. If only a part of the property included in the federal gross estate of a decedent has a situs in North Dakota,

the North Dakota taxable estate shall be the amount that is obtained by subtracting from the federal taxable estate the federal estate taxes paid on the transfer thereof and then multiplying that difference by a fraction which has as its numerator the value of the portion of the federal gross estate having a situs in North Dakota and which has as its denominator the value of the total federal gross estate. This fraction shall also be used in determining the proportion of the exemption provided in subdivision a of subsection 1 which shall be deducted.

SECTION 3. AMENDMENT.) Section 57-37.1-04 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37.1-04. COMPUTATION OF TAX.) The amount of tax imposed upon the transfer of the North Dakota taxable estate shall be computed by applying to the North Dakota taxable estate the rates of tax prescribed in the following table:

North Dakota Taxable Estate		Rates of Tax		
From	To	Tax	Percent	Of Excess Over
\$ 0	\$10,000	\$ 0	4	\$ 0
10,000	20,000	400	6	10,000
20,000	30,000	1,000	8	20,000
30,000	40,000	1,800	10	30,000
40,000	50,000	2,800	12	40,000
50,000	60,000	4,000	14	50,000
60,000	80,000	5,400	16	60,000
80,000		8,600	18	80,000

Provided that the amount of tax imposed by this section on the transfer of any estate shall not be less than the maximum tax credit allowable for state death taxes against the federal estate tax imposed with respect to that part of the decedent's estate which has a taxable situs in this state.

SECTION 4. AMENDMENT.) Section 57-37.1-07 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37.1-07. TAXES PAYABLE AS OF DATE OF DEATH - INTEREST RATE.) The tax imposed by this chapter shall be due and payable at the death of the decedent, and if not paid within fifteen months after the date of death, shall bear interest at the rate of one percent per month or fraction thereof to be computed from the expiration of fifteen months after death until the amount is paid.

SECTION 5. EFFECTIVE DATE.) The provisions of this Act shall be effective for the estate of any decedent whose death occurs on or after January 1, 1977.

CHAPTER 534

SENATE BILL NO. 2141
(Vosper)

SITUS OF INTANGIBLE PERSONAL PROPERTY

AN ACT to amend and reenact subsection 6 of section 57-37.1-01 and subsection 1 of section 57-37.1-08 of the North Dakota Century Code, relating to the decedent specifying the location of intangible personal property for estate tax distribution purposes.

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

SECTION 1. AMENDMENT.) Subsection 6 of section 57-37.1-01 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Situs of property" means, as to real property, the state or country in which it was situated at the time of the decedent's death; as to tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death; as to intangible personal property, the state or country in which the decedent was a resident at death; and when used in reference to property having a situs in North Dakota it also means the county in which the property has its situs as determined in accordance with this subsection. Provided, however, that as to intangible personal property a resident may specify in his or her will that the situs of all, or of particular items of, intangible personal property shall be at any such location within a county or counties in this state at which he or she had resided for at least fifteen years after attaining eighteen years of age.

SECTION 2. AMENDMENT.) Subsection 1 of section 57-37.1-08 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The tax commissioner shall collect the tax imposed by this chapter and shall pay over the same to the state treasurer at the end of each calendar month and at the time of payment shall provide the state treasurer with

a listing of estates of decedents from which the taxes were collected, together with a certificate as to the location and value of real estate and personal property for each estate. If the decedent was a resident of this state at the time of his or her death, the certificate shall also show the situs of those items of intangible personal property, if any, for which the decedent's will had, in accordance with subsection 6 of section 57-37.1-01, specified a situs different from that of the decedent's residence at the time of death.

Approved April 21, 1977

CHAPTER 535

SENATE BILL NO. 2482
(Melland)

SAFE DEPOSIT BOX ACCESS

AN ACT to amend and reenact section 57-37.1-12 of the North Dakota Century Code, relating to denial of access to safe deposit box without order of county court.

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

SECTION 1. AMENDMENT.) Section 57-37.1-12 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37.1-12. DUTIES OF DEPOSITORIES - DENIAL OF ACCESS TO SAFE DEPOSIT BOX WITHOUT ORDER OF COUNTY COURT.) No safe deposit company, trust company, corporation, bank, or other institution or person engaged in the business of renting safe deposit boxes or other receptacles of similar character shall rent any such box or receptacle without first procuring from each person given access thereto an agreement in writing to the effect that upon the death of any person having the right of access to such box or receptacle, notice of such death will be given to such safe depository, bailee, or lessor before seeking access to such box or receptacle. A safe deposit company, trust company, corporation, bank, or other institution or person having the possession, control, custody, or partial custody of any safe deposit box or similar receptacle shall not permit access to such box or receptacle after the death of any person who at the time of his death had the right or privilege of access thereto, by any other person acting as principal, deputy, agent, or cotenant of such deceased person, without first securing from the judge of the county court an order in writing permitting such access to be made in the presence of a representative of the court and a representative of the person or institution having control of the safe deposit box. However, any person holding an interest jointly in a safe deposit box with another person may, upon the death of the other person, open the safe deposit box in the presence of an officer or other agent of the lessor of the box and inspect and inventory the contents without first securing from the judge of the county court an order in writing permitting such access.

Approved March 31, 1977

CHAPTER 536

SENATE BILL NO. 2230
(Committee on Finance and Taxation)
(At the request of the Tax Department)

INCOME TAX LAW AMENDMENTS

AN ACT to create and enact subsection 27 to section 57-38-01 and subsections 5 and 6 to section 57-38-58 of the North Dakota Century Code, relating to definitions; to amend and reenact sections 57-01-10, 57-38-09.1, 57-38-62 and subsection 1 of section 57-38-66 of the North Dakota Century Code, relating to income tax and business and corporation privilege tax; to repeal subsections 7, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 25, and 26 of section 57-38-01 of the North Dakota Century Code, relating to income tax definitions; and to provide for an effective date.

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

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

57-01-10. TAX MANUALS - DISTRIBUTION.) The state tax commissioner is hereby authorized to prepare a manual or manuals in looseleaf form in which is compiled the provisions of any or several of the tax laws administered by him together with the rules, regulations, opinions, and other information relating to the administration of the particular law or laws included in each manual. He may make each manual available for sale at a charge that will cover the cost of preparing and mailing it and also may prepare and have available for sale, at an amount sufficient to cover all costs, periodic supplements to each manual so as to provide the purchaser with current information relating to the interpretation and administration of the various tax laws he administers.

All moneys received by him from the sale of such manuals and the supplements for them shall be transmitted by him at the end of each month to the state treasurer for deposit by him to the credit of the general fund.

SECTION 2.) Subsection 27 to section 57-38-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

27. Any term, as used in chapters 57-38, 57-38.1, 57-38.2, 57-59, or in any other section or provision of the North Dakota Century Code and supplements thereto, as it pertains to the filing and reporting of income, deductions, or exemptions or the paying of North Dakota income tax, shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required or contemplated.

SECTION 3. AMENDMENT.) Section 57-38-09.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-09.1. ORGANIZATIONS EXEMPT FROM INCOME TAX - FILE RETURN.) Any organization exempt from taxation pursuant to section 57-38-09 must file a return 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. Returns 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 returns 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. The return shall be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other officer duly authorized so to act and it and any other declaration, statement, or document required to be made shall contain or be verified by a written declaration that it is made under the penalties of perjury.

SECTION 4.) Subsections 5 and 6 to section 57-38-58 of the North Dakota Century Code are hereby created and enacted to read as follows:

5. "Calendar quarter" means the period of three consecutive months ending March thirty-first, June thirtieth, September thirtieth, or December thirty-first.
6. "Payroll period" means a period for which a payment of wages is ordinarily made to the employee by his employer, and the term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannually, or annual payroll period.

SECTION 5. AMENDMENT.) Section 57-38-62 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-62. DECLARATION OF ESTIMATED INCOME.) All nonresident taxpayers shall, and resident taxpayers may, at the time prescribed in this chapter, make a declaration of their estimated tax for the

taxable year, containing such information as the tax commissioner may prescribe by rules and regulations, if their estimated tax due the state from sources other than wages, salaries, bonuses, or other emoluments can reasonably be expected to exceed one hundred dollars.

SECTION 6. AMENDMENT.) Subsection 1 of section 57-38-66 of the 1975 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, notwithstanding the provisions of section 57-38-08, each partnership required to file a partnership return pursuant to subsection 2 of section 57-38-42 who derives income from the operation of a business, trade, or profession, other than as an employee, shall pay a tax for the privilege of doing business in this state of one percent of the net income in excess of two thousand dollars derived from the operation of such business, trade, or profession, which tax shall be a separate tax that is levied in addition to the taxes provided for in chapter 57-38. For the purposes of this subsection, the term "net income" means the gross income derived from such business, trade, or profession less the expenses of carrying on such business, trade, or profession, as computed for federal income tax purposes pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended; provided that in computing gross income and net income there shall not be taken into account any gain or loss from the sale or exchange of property used in the operation of a business, trade, or profession but not held for sale in the regular course thereof; provided, further, that the net income of an individual shall not include his distributive share as a partner in the earnings of any partnership on which the partnership is required to apply the tax rate provided for in this subsection.

SECTION 7. REPEAL.) Subsections 7, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 25, and 26 of section 57-38-01 of the North Dakota Century Code are hereby repealed.

SECTION 8. EFFECTIVE DATE.) This Act shall become effective for all taxable years beginning on or after January 1, 1977.

Approved March 23, 1977

CHAPTER 537

HOUSE BILL NO. 1479
(Metzger)

SOLAR OR WIND ENERGY DEVICE CREDIT

AN ACT to provide an income tax credit for the installation of solar or wind energy devices.

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

SECTION 1. INCOME TAX CREDIT FOR INSTALLATION OF SOLAR OR WIND ENERGY DEVICES.) Any taxpayer filing a North Dakota income tax return pursuant to the provisions of chapter 57-38 may claim a credit for the cost of a solar or wind energy device installed in a building or on the premises of a building owned by the taxpayer. The credit provided in this section shall be in an amount equal to five percent per year for two years of the actual cost of acquisition and installation of the solar or wind energy device and shall be subtracted from any income tax liability of the taxpayer as determined pursuant to the provisions of chapter 57-38. For the purposes of this Act, "solar or wind energy device" means a system or mechanism or series of mechanisms designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, or to store any of these, by a method which converts the natural energy of the sun or wind. If a solar or wind energy device is a part of a system which uses other means of energy, only that portion of the total system directly attributable to the cost of the solar or wind energy device shall be included in determining the amount of the credit. The costs of installation shall not include costs of redesigning, remodeling, or otherwise altering the structure of a building in which a solar or wind energy device is installed.

Approved March 31, 1977

CHAPTER 538

SENATE BILL NO. 2190
(Committee on Finance and Taxation)
(At the request of the State Tax Department)

INCOME TAX FEDERALIZATION UPDATE

AN ACT to provide for income tax deductions for contributions to certain individual retirement accounts; to amend and reenact subsection 21 of section 57-38-01 of the North Dakota Century Code, relating to the federalization of the North Dakota income tax law through December 31, 1976; and providing for an effective date; and declaring an emergency.

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

SECTION 1. DEDUCTION OF CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNT.) Any member of an armed forces reserve component and any volunteer firefighter who establishes an individual retirement account in a taxable year beginning in calendar year 1976, pursuant to section 219 of the United States Internal Revenue Code of 1954 as amended by the 1976 Federal Tax Reform Act, may deduct for state income tax purposes the same amount of his contributions to the individual retirement account as he deducted for federal income tax purposes.

SECTION 2. AMENDMENT.) Subsection 21 of section 57-38-01 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21. "Federal Internal Revenue Code of 1954, as amended", "United States Internal Revenue Code of 1954, as amended", and "Internal Revenue Code of 1954, as amended", mean the United States Internal Revenue Code of 1954, as amended to and including December 31, 1976.

SECTION 3. EFFECTIVE DATE.) Section 2 of this Act shall become effective for all taxable years beginning on or after January 1, 1977.

SECTION 4. 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 31, 1977

CHAPTER 539

HOUSE BILL NO. 1474
(Crabtree)

TREATMENT OF LOSSES

AN ACT to provide for the deferral of certain payments received for crop disasters and proceeds from livestock sold because of drought, and to provide for the reporting of net operating losses for income tax purposes; to provide an effective date; and declaring an emergency.

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

SECTION 1. DEFERRAL OF CROP DISASTER PAYMENTS AND PROCEEDS OF LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.) A taxpayer who received payments under the Agricultural Act of 1949, as amended, as a result of destruction or damage to crops caused by drought, flood, or any other natural disaster, or the inability to plant crops because of such a natural disaster, as provided in section 451(d) of the Internal Revenue Code of 1954, as amended, or a taxpayer who derived proceeds from livestock sold on account of drought as provided in section 451(e) of the Internal Revenue Code of 1954, as amended, may defer the same amount of such payments or proceeds for state income tax purposes as permitted for federal income tax purposes.

SECTION 2. REPORTING NET OPERATING LOSS.) A taxpayer who incurred a net operating loss for a taxable year ending after December 31, 1975, who, pursuant to section 172 of the United States Internal Revenue Code of 1954 as amended by the 1976 Federal Tax Reform Act, elected not to carry back such loss to a preceding year, shall, for state income tax purposes, carry forward the loss in the same manner as for federal income tax purposes.

SECTION 3. EFFECTIVE DATE.) The provisions of section 1 of this Act shall be effective for all taxable years beginning on or after January 1, 1976.

SECTION 4. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 19, 1977

CHAPTER 540

SENATE BILL NO. 2211
(Committee on Finance and Tax)
(At the request of the Tax Department)

ALLOCATION OF CORPORATE INCOME

AN ACT to amend and reenact subsection 10 of section 57-38-14 of the North Dakota Century Code, relating to allocation of corporate income in special cases; and to provide for an effective date.

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

SECTION 1. AMENDMENT.) Subsection 10 of section 57-38-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. In case any corporation or individual uses leased property in its business, the value of the leasehold interest of the lessee shall be included in the value of the tangible property of the corporation and computed at eight times the net annual rental rate for purposes of allocation or apportionment of the net income.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1977.

Approved March 23, 1977

CHAPTER 541

SENATE BILL NO. 2247
(Committee on Finance and Taxation)
(At the request of the Tax Department)

ELIGIBILITY FOR INCOME AVERAGING

AN ACT to amend and reenact section 57-38.2-02 of the North Dakota Century Code, relating to eligibility for income averaging; and to provide for an effective date.

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

SECTION 1. AMENDMENT.) Section 57-38.2-02 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38.2-02. ELIGIBILITY FOR INCOME AVERAGING.) A taxpayer who was a resident of North Dakota throughout the computation year and throughout the base period and who averages his income for federal income tax purposes pursuant to subchapter Q of the Internal Revenue Code of 1954, as amended, may average his income as provided in this chapter for state income tax purposes.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1977.

Approved March 12, 1977

CHAPTER 542

HOUSE BILL NO. 1459
(Rocheleau, Anderson, Vander Vorst, Schindler)

AUCTION SALE SALES TAX EXEMPTION

AN ACT to amend and reenact subsection 6 of section 57-39.2-01 of the North Dakota Century Code, relating to sales taxes on items sold at auction.

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

SECTION 1. AMENDMENT.) Subsection 6 of section 57-39.2-01 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Gross receipts" means the total amount of sales of retailers, valued in money, whether received in money or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided further, however, that when tangible personal property is taken in trade or in a series of trades as a credit or part payment of a retail sale taxable under this chapter, if the tangible personal property traded in will be subject to the sales tax imposed by this chapter when sold or will be subject to the motor vehicle excise tax imposed by chapter 57-40.3, the credit or trade-in value allowed by the retailer shall not be regarded as gross receipts. Provided further, however, that on all sales of retailers, valued in money, when such sales are made under conditional sales contract, or under other forms of sale wherein the payment of the principal sum thereunder be extended over a period longer than sixty days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted for, for the purpose of imposition of tax imposed by this chapter, as has actually been received in cash by the retailer during each quarterly period as defined herein. "Gross receipts" shall also mean, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only such tangible personal property the transfer of title to which has not been

subjected to a retail sales tax in this state. "Gross receipts" shall also mean, with respect to subscriptions to magazines and other periodicals, the amount of consideration, valued in money, whether received in money or otherwise, received from the sale of such subscriptions regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription. For the purpose of this chapter gross receipts shall also include the total amount of sales of every clerk, auctioneer, agent, or factor selling tangible personal property owned by any other retailer.

Approved March 17, 1977

CHAPTER 543

HOUSE BILL NO. 1438
(Winkjer)

**BOARDING HOMES FOR THE AGED SALES
TAX EXEMPTION**

AN ACT to amend and reenact subsection 24 of section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions for all sales to boarding homes for the aged and infirm licensed by the state social service board.

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

SECTION 1. AMENDMENT.) Subsection 24 of section 57-39.2-04 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24. Gross receipts from all sales otherwise taxable under this chapter when made to any skilled nursing facility or intermediate care facility licensed by the state health department, and boarding homes for the aged and infirm licensed by the social service board of North Dakota.

Approved March 17, 1977

CHAPTER 544

SENATE BILL NO. 2310
(Redlin, Reiten)

RENTAL PROPERTY SALES TAX EXEMPTION

AN ACT to create and enact a new subsection to section 57-39.2-04, to create and enact a new subdivision to subsection 9 of section 57-40.2-01, and to create and enact a new subsection to section 57-40.2-04 of the North Dakota Century Code; to amend and reenact subsection 3 of section 57-39.2-01 of the North Dakota Century Code, relating to sales or use tax on rented or leased tangible personal property; and to provide an effective date; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 57-39.2-01 of the 1975 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 or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated outside of North Dakota 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. The sale of an item of tangible personal property to a purchaser who rents or leases it to a person under a finance leasing agreement over the term of which the property will be substantially consumed shall be considered a retail sale if the purchaser elects to treat it as such by paying or causing the transferor to pay the sales tax thereon to the commissioner on or before the last day on which payments may be made without penalty as provided in section 57-39.2-12.

SECTION 2.) A new subsection to section 57-39.2-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from the leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid or is payable.

SECTION 3.) A new subdivision to subsection 9 of section 57-40.2-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

The purchase of an item of tangible personal property by a purchaser who rents or leases it to a person under a finance leasing agreement over the term of which the property will be substantially consumed, if the purchaser elects to treat it as being purchased at retail by paying or causing the transferor to pay the use tax thereon to the commissioner on or before the last day on which payments may be made without penalty as provided in section 57-40.2-07.

SECTION 4.) A new subsection to section 57-40.2-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

The leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid pursuant to the election of the purchaser

pursuant to subsection 3 of section 57-39.2-01 or subsection 9 of section 57-40.2-01.

SECTION 5. EFFECTIVE DATE.) The provisions of this Act shall be effective for finance leasing agreements made after November 30, 1976.

SECTION 6. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 10, 1977

CHAPTER 545

HOUSE BILL NO. 1314
(Reed)

NONPROFIT MEAL DELIVERY ORGANIZATION
SALES TAX EXEMPTION

AN ACT to create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions for sales to certain nonprofit meal delivery organizations.

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 1975 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from all sales otherwise taxable under this chapter when made to any nonprofit organization for meals, including the containers, packages, and materials used for wrapping food items, for delivery to persons who are confined to their homes by illness or incapacity, including but not limited to senior citizens and disabled persons, for consumption by such shut-ins in their homes.

Approved March 19, 1977

CHAPTER 546

HOUSE BILL NO. 1597
(A. Hausauer)

TRAVEL TRAILER SALES TAX EXEMPTION

AN ACT to create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions for travel trailers sold to residents of other states.

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 1975 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from all sales of recreational travel trailers not exceeding eight feet in width or thirty-two feet in length which are designed to be principally used as temporary vacation dwellings when made to persons who are residents of other states which impose excise taxes upon registration of such recreational travel trailers.

Approved April 9, 1977

CHAPTER 547

SENATE BILL NO. 2445
(Lips)

DIRECT PAYMENT OF SALES TAX

AN ACT to create and enact section 57-39.2-14.1 of the North Dakota Century Code, relating to direct payment of sales and use tax to the commissioner; to amend and reenact subsection 1 of section 57-40.2-07 of the North Dakota Century Code, relating to the collection of use tax.

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

SECTION 1.) Section 57-39.2-14.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-39.2-14.1. COMMISSIONER MAY AUTHORIZE DIRECT PAYMENT OF SALES AND USE TAX.) Upon application by any person, the commissioner, in his discretion, may issue to the applicant, subject to such terms and conditions as the commissioner deems reasonable and necessary, a permit to be known as a direct payment permit authorizing such applicant to make direct payment to the commissioner of any sales or use tax imposed on any purchase, use, storage, or consumption in this state of tangible personal property or services by such applicant. Such applicant may elect to pay any such taxes directly to the commissioner and for that purpose may issue to the retailer selling or furnishing the tangible personal property or services subject to such taxes a direct payment certificate in the form prescribed by the commissioner, assuming the obligation to pay all such taxes, and the receipt of such certificate shall discharge such retailer from any duty to collect or liability for such taxes. Such direct payment permit may be revoked by the commissioner, with or without cause, at any time.

SECTION 2. AMENDMENT.) Subsection 1 of section 57-40.2-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-07. COLLECTION OF USE TAX.) The tax imposed by this chapter shall be collected in the following manner:

1. Except as otherwise provided by section 57-39.2-14.1, every retailer maintaining a place of business in this state and making sales of tangible personal property for use in this state, not exempted under the provisions of

section 57-40.2-04, before making any sales shall obtain a permit from the commissioner to collect the tax imposed by this chapter, which permit shall be subject to all of the requirements, conditions, and fees for its issuance that apply with respect to a retail sales tax permit, and at the time of making such sales, whether within or without the state, shall except as otherwise provided in subsection 1 of section 57-40.2-06, collect the tax imposed by this chapter from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the tax commissioner, if the commissioner, by regulation, shall require such receipt. Each such retailer shall list with the tax commissioner the name and address of all his agents operating in this state, and the location of each of his distribution or sales houses or offices or other places of business in this state.

Approved March 23, 1977

CHAPTER 548

SENATE BILL NO. 2212
(Committee on Finance and Tax)
(At the request of the Tax Department)

LIABILITY FOR FAILING TO PAY SALES TAX

AN ACT to create and enact a new section to chapter 57-39.2 and to chapter 57-40.2 of the North Dakota Century Code, relating to the liability of corporate officers.

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

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

If a corporation holding a permit issued pursuant to the provisions of this chapter fails for any reason to file the required returns or to pay the tax due, any of its officers having control, or supervision of, or charged with the responsibility for making such returns and payments shall be personally liable for such failure. The dissolution of a corporation shall not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The sum due for such a liability may be assessed and collected pursuant to the provisions of this chapter for the assessment and collection of other liabilities.

SECTION 2.) A new section to chapter 57-40.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

If a corporation holding a permit issued pursuant to the provisions of this chapter fails for any reason to file the required returns or to pay the tax due, any of its officers having control, or supervision of, or charged with the responsibility for making such returns and payments shall be personally liable for such failure. The dissolution of a corporation shall not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The sum due for such a liability may be assessed and collected pursuant to the provisions of this chapter for the assessment and collection of other liabilities.

Approved March 23, 1977

CHAPTER 549

SENATE BILL NO. 2339
(Goodman)

USE TAX EXEMPTIONS

AN ACT to create and enact a new subsection to section 57-40.2-04 of the North Dakota Century Code, providing that sales of personal property and services exempt from the sales tax shall also be exempt from the use tax; and to amend and reenact subsection 3 of section 57-40.2-04 of the North Dakota Century Code, relating to the exemption of motor vehicles from the use tax.

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

SECTION 1.) A new subsection to section 57-40.2-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Any tangible personal property or service which would be exempt from the retail sales tax pursuant to an express exemption provided in chapter 57-39.2 if it were purchased in North Dakota.

SECTION 2. AMENDMENT.) Subsection 3 of section 57-40.2-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Any motor vehicle either subject to or expressly exempted from the motor vehicle excise taxes imposed by chapter 57-40.3.

Approved March 31, 1977

CHAPTER 550

HOUSE BILL NO. 1412
(Timm, Gackle, Nicholas, Scofield)

MOTOR VEHICLE EXCISE TAX EXEMPTION

AN ACT to amend and reenact subsection 3 of section 57-40.3-04 of the North Dakota Century Code, relating to exemption from the motor vehicle excise tax.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 57-40.3-04 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Motor carrier vehicles in excess of 20,000 pounds gross weight, whether owned or leased, engaged in interstate commerce but only to the extent their revenue from interstate hauling bears to their total revenue for the preceding operating year.

Approved April 9, 1977

CHAPTER 551

SENATE BILL NO. 2223
(Committee on Finance and Taxation)
(At the request of the Motor Vehicle Department)

MOTOR VEHICLE EXCISE TAX EXEMPTIONS AND PENALTIES

AN ACT to create and enact a new subsection to section 57-40.3-04 of the North Dakota Century Code, relating to an exemption for buses purchased by senior citizens' and handicapped persons' nonprofit corporations; to amend and reenact subsection 2 of section 57-40.3-04 and section 57-40.3-11 of the North Dakota Century Code, relating to exempt vehicles and a penalty for delinquent motor vehicle excise taxes.

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

SECTION 1.) A new subsection to section 57-40.3-04 of the 1975 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Any motor vehicle in the possession of and used as a bus exclusively by a nonprofit senior citizens' or handicapped persons' corporation, provided that such bus shall not be used for commercial activities.

SECTION 2. AMENDMENT.) Subsection 2 of section 57-40.3-04 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Any motor vehicle owned by or in possession of the federal or state government or a political subdivision thereof.

SECTION 3. AMENDMENT.) Section 57-40.3-11 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any person who shall violate any of the provisions of this chapter shall be guilty of a class B misdemeanor.
2. Any person who shall submit a false or fraudulent "Motor Vehicle Purchaser's Certificate" shall be subject to a penalty of five percent of the true amount of the tax which was due or five dollars, whichever is greater, plus one percent of such tax for each month or fraction thereof

subsequent to the month in which the false or fraudulent "Motor Vehicle Purchaser's Certificate" was furnished to the motor vehicle registrar. Such penalty shall be paid to either the tax commissioner or the motor vehicle registrar and disposed of pursuant to the provisions of subsection 3 of section 57-40.3-10. Unpaid penalties may be enforced in the same manner as the tax imposed by this chapter.

Approved March 23, 1977

CHAPTER 552

HOUSE BILL NO. 1215
(Committee on Finance and Taxation)
(At the request of the Tax Department)

MOTOR FUEL TAX REFUND FILING TIME

AN ACT to amend and reenact section 57-50-03 of the North Dakota Century Code, relating to the filing time for the 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 1975 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.)
A refund claim must be filed, for all motor vehicle fuel purchases during a calendar year, on or after January first and before July first of the year next following, or the claim for refund shall be barred unless the tax commissioner grants an extension of time for cause. However, any claim for refund may be filed in the calendar year of motor vehicle fuel purchase when:

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

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

Approved March 17, 1977

CHAPTER 553

SENATE BILL NO. 2514
(Wright)

SPECIAL FUELS TAX EXEMPTION

AN ACT to state the purpose and intent of the legislative assembly with respect to special fuels taxes payable by users of special fuels in motor vehicles or for industrial purposes in the performance of contracts with governmental units; and to amend and reenact subsections 5 and 7 of section 57-52-03 and sections 57-52-04, 57-53-02, and 57-53-03 of the North Dakota Century Code, relating to special fuels taxes.

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

SECTION 1. PURPOSE AND INTENT OF THE LEGISLATIVE ASSEMBLY.) The legislative assembly of the state of North Dakota hereby declares and finds that it is the purpose of chapter 57-52 of the North Dakota Century Code that a nonrefundable tax be imposed on sales and deliveries of special fuels for use in motor vehicles and that users of special fuels for industrial purposes in the performance of contracts with any unit of government pay the tax imposed by section 57-52-04 of that chapter, that section 57-50-05.1 of the North Dakota Century Code prohibits refund of the tax so paid on special fuel used for such purposes, and that the tax be refunded if paid on special fuel used for industrial purposes other than in the performance of contracts with units of government, provided that the amount refunded be the difference between the amount paid pursuant to section 57-52-04 and the amount of tax imposed by chapter 57-53 of the North Dakota Century Code. The amendments to subsections 5 and 7 of section 57-52-03 and sections 57-52-04, 57-53-02, and 57-53-03 of the North Dakota Century Code that are made by this Act are intended by the legislative assembly to clearly express the aforesaid purposes.

SECTION 2. AMENDMENT.) Subsections 5 and 7 of section 57-52-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

5. "Sale" means the receipt, delivery, or transfer of title to special fuels by a special fuel dealer to a special fuel user except that it shall not include the receipt, delivery, or transfer of title to special fuels to be used for heating, agricultural, and railroad purposes or to be

used for industrial purposes other than in the performance of a contract with any unit of government;

7. "Special fuel user" means any person receiving or purchasing special fuel except that it shall not include a person purchasing or receiving special fuels when such fuel is to be used for heating, agricultural, or railroad purposes or for industrial purposes other than in the performance of a contract with any unit of government nor shall it include a special fuels dealer purchasing or receiving special fuel for resale; and

SECTION 3. AMENDMENT.) Section 57-52-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 57-52-04. TAX IMPOSED - EXEMPTIONS.) There is hereby levied and imposed an excise tax of seven cents per gallon on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, or railroad purposes or for industrial purposes other than in the performance of a contract with any unit of government shall be exempt from the tax imposed by this chapter, provided that the sale or delivery of special fuel for use in a motor vehicle shall not be exempt. Said tax shall attach at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state tax commissioner as hereinafter provided. Except as prohibited by section 57-50-05.1, the tax imposed herein shall be refundable when used for nonhighway purposes, and the provisions and procedures of chapter 57-50 relating to the refund of motor fuel taxes shall apply to the tax imposed by this chapter, provided that the amount refunded for any special fuel shall not include the amount of tax imposed by section 57-53-02 on the sale of that fuel.

SECTION 4. AMENDMENT.) Section 57-53-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-53-02. TAX LEVIED.) There is hereby levied and imposed a special excise tax on all sales of special fuel which are exempted from the tax imposed under chapter 57-52 to a special fuel user and on all sales of special fuels which are taxed under chapter 57-52 if that tax is thereafter refunded to a special fuel user. Such sales shall be taxed at the rate of two percent of the sale price of such special fuels, provided, however, that discounts for any purposes allowed and taken on such sales shall not be included as a part of the sale price.

SECTION 5. AMENDMENT.) Section 57-53-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-53-03. COLLECTION AND PAYMENT OF TAX.) The tax imposed

*NOTE: Section 57-52-04 was also amended by section 1 of Senate Bill No. 2234, chapter 554.

by section 57-53-02 shall attach at the time of sale of any special fuel by any special fuel dealer to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state tax commissioner as hereinafter provided, or it shall be collected as provided in section 57-52-04 if the tax imposed by that section was paid to the state tax commissioner and then refunded to the special fuel user.

SECTION 6. EFFECTIVE DATE.) The provisions of this Act shall not apply to any contracts let before January 1, 1977.

Approved April 7, 1977

CHAPTER 554

SENATE BILL NO. 2234
(Committee on Finance and Taxation)
(At the request of the Highway Department)

MOTOR VEHICLE FUEL TAX INCREASE

AN ACT to amend and reenact sections 57-52-04 and 57-54-08 of the North Dakota Century Code, relating to a tax increase on motor vehicle fuel and special fuel used in motor vehicles.

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

SECTION 1. AMENDMENT.) Section 57-52-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 57-52-04. TAX IMPOSED - EXEMPTIONS.) There is hereby levied and imposed an excise tax of eight cents per gallon on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, industrial, or railroad purposes shall be exempt from the tax imposed by this chapter. Said tax shall attach at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state tax commissioner as hereinafter provided. The tax imposed herein shall be refundable when used for nonhighway purposes, and the provisions and procedures of chapter 57-50 relating to the refund of motor fuel taxes shall apply to the tax imposed by this chapter.

SECTION 2. AMENDMENT.) Section 57-54-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-08. TAX IMPOSED ON MOTOR VEHICLE FUELS.) There is hereby imposed a tax of eight cents per gallon on all motor vehicle fuel sold or used in this state. The tax imposed by this section shall be collected by the dealer from the consumer on all sales. Sales of fuel in the original package may be made to a licensed dealer and he shall have the option of collecting the tax imposed by this chapter, but on sales in the original package to persons other than licensed dealers, the dealer shall be liable for the tax thereon.

*NOTE: Section 57-52-04 was also amended by section 3 of Senate Bill No. 2514, chapter 553.

Approved April 9, 1977

CHAPTER 555

HOUSE BILL NO. 1228
(Committee on Finance and Taxation)
(At the request of the Tax Department)

MOTOR FUEL TAX PROVISIONS

AN ACT to create and enact new sections to chapters 57-52 and 57-53 of the North Dakota Century Code, relating to special fuel shrinkage provisions; and to amend and reenact sections 57-35-06, 57-35.1-02, 57-50-04, 57-52-12, 57-52-17, 57-54-11, and 57-54.1-12 of the North Dakota Century Code, relating to the subjection of banks, trust companies, and building and loan associations to motor fuel tax, occasional trip permits, and general penalty provisions.

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

SECTION 1. AMENDMENT.) Section 57-35-06 of the 1975 Supplement to 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 motor vehicle fuel and special fuel taxes, sales and use taxes, including motor vehicle excise taxes, and taxes upon the real and personal property of each such bank and trust company.

SECTION 2. AMENDMENT.) Section 57-35.1-02 of the 1975 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 motor vehicle fuel and special fuel taxes, sales and use taxes, including motor vehicle excise taxes, and taxes upon the real and personal property of any association, and shall be based upon and measured by the net income of each association for the preceding calendar year. The amount of the tax shall be computed by the tax commissioner at the rate of five percent of such net income. Regardless of such computation, the minimum tax assessable hereunder to any association shall be fifty dollars. The liability for the tax imposed by this chapter

shall arise upon the first day of each calendar year following the year for which the net income is used as the base for measuring the tax.

SECTION 3. AMENDMENT.) Section 57-50-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-04. TAX COMMISSIONER TO AUDIT AND APPROVE CLAIM - INVESTIGATION OF DOUBTFUL CLAIMS - PAYMENT OF CLAIMS.) The state tax commissioner, upon the presentation of such sworn claim, shall audit said claim for refund and prepare, in duplicate, an abstract showing the claim number, the name and address and the amount due each claimant, and shall approve and submit such claims for payment within thirty days of the receipt thereof in the state tax commissioner's office unless the tax commissioner shall be in doubt as to the validity of any claim, in which case the tax commissioner may withhold the approval thereof for a reasonable time for purposes of investigation. The state tax commissioner may authorize any employee or agent of his office to investigate doubtful claims and make a report of his findings to the tax commissioner who shall thereupon promptly approve or reject such claim as the facts may warrant. All claims approved by the tax commissioner shall be paid by warrant-checks prepared by the department of accounts and purchases. The state treasurer shall not be required to retain the canceled checks by which any refund may have been paid for a period of more than six years from the first day of July of the fiscal year in which the refund check is issued.

SECTION 4.) A new section to chapter 57-52 of the North Dakota Century Code is hereby created and enacted to read as follows:

LOSSES - DEDUCTIONS ALLOWED TO DEALER - REMEDIES.)

1. Each dealer of special fuel other than liquefied petroleum gas shall be allowed to deduct the actual shrinkage of the total gallonage of special fuel received by him during each calendar month from the statement submitted by him required in section 57-52-10, but such allowance shall not exceed one percent of the total received by him during such month. In the case of the special fuel, liquefied petroleum gas, each wholesale dealer of such liquefied petroleum gas shall be allowed to deduct the actual shrinkage of the total gallonage received by him during each calendar month from the statement submitted by him required in section 57-52-10, but such allowance shall not exceed two percent of the total received by him during such month.

For the purposes of this chapter, it shall be presumed that all special fuel received by each dealer over and

above the one percent allowance, or the two percent allowance in the case of liquefied petroleum gas, as herein provided, not otherwise accounted for, but not that gallonage shown as inventory at the end of every calendar month, and other allowances provided in this chapter, has been sold, delivered, or used and the dealer shall be liable for the amount of the special fuel tax on each gallon of special fuel not accounted for. For purposes of this chapter, special fuel refined at a refinery in this state and placed in storage thereat, and special fuel brought into the state by pipeline and placed in storage at a pipeline terminal, shall not be deemed received until it is withdrawn from the refinery or terminal storage for sale or use in this state, or for shipment or delivery to destinations in this state.

SECTION 5. AMENDMENT.) Section 57-52-12 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 6. AMENDMENT.) Section 57-52-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-17. RULES AND REGULATIONS, ADMINISTRATION.) The state tax commissioner shall enforce the provisions of this chapter and may prescribe, adopt, and enforce reasonable rules and regulations relating to the administration and enforcement thereof for both special fuel dealers and special fuel users.

The state tax commissioner may audit and examine the records of special fuel dealers and special fuel users and make other such investigations as he may deem necessary in the administration and enforcement of this chapter. If upon such audit, examination, or investigation the tax commissioner shall find additional tax due, he may assess such tax, and the penalty and interest shall be added as provided in section 57-52-12.

SECTION 7.) A new section to chapter 57-53 of the North Dakota Century Code is hereby created and enacted to read as follows:

LOSSES - DEDUCTIONS ALLOWED TO DEALER - REMEDIES.)

1. Each dealer of special fuel other than liquefied petroleum gas shall be allowed to deduct the actual shrinkage of the total gallonage of special fuel received by him during each calendar month from the statement submitted by him required in section 57-53-05, but such allowance shall not exceed one percent of the total received by him during such month. In the case of special fuel, liquefied petroleum gas, each wholesale dealer of such liquefied petroleum gas shall be allowed to deduct the actual shrinkage of the total gallonage received by him during each calendar month from the statement submitted by him required in section 57-53-05, but such allowance shall not exceed two percent of the total received by him during such month.
2. For the purposes of this chapter, it shall be presumed that all special fuel received by each dealer over and above the one percent allowance, or the two percent allowance in the case of liquefied petroleum gas, as herein provided, not otherwise accounted for, but not that gallonage shown as inventory at the end of each calendar month, and other allowances provided in this chapter, has been sold, delivered, or used and the dealer shall be liable for the amount of the special fuel tax on each gallon of special fuel not accounted for. For purposes of this chapter, special fuel refined at a refinery in this state and placed in storage thereat, and special fuel brought into the state by pipeline and placed in storage at a pipeline terminal, shall not be deemed received until it is withdrawn from the refinery or terminal storage for sale or use in this state, or for shipment or delivery to destinations in this state.

SECTION 8. AMENDMENT.) Section 57-54-11 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-11. FAILURE TO FILE REPORT - PENALTY - REVOCATION OF LICENSE - EXCUSE FOR DELAY.) If the holder of a license to sell motor fuel at any time shall either refuse or neglect to file the report required to be filed, or pay the full amount of the tax as required by this chapter, there is hereby imposed a penalty of five dollars, or a sum equal to two percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction thereof during which such refusal or failure continues, and the state tax commissioner forthwith may revoke such license and, if so, shall notify the holder thereof promptly by a notice sent by registered or certified mail to the post-office address of such holder as the same appears in the state tax commissioner's records. However, if such report is filed and the tax paid within ten days after the date it becomes due and if it is established under oath that the delay was due to accident or justifiable oversight, then the state tax commissioner may continue such license in full force and effect. The state tax commissioner, in his discretion for good cause shown, may waive all or any part of the penalty or the interest provided by this section.

SECTION 9. AMENDMENT.) Section 57-54.1-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-12. OCCASIONAL TRIP PERMITS.) Any person who occasionally makes trips into or through North Dakota and who elects to secure occasional trip permits as hereinafter provided shall be exempt from the licensing and bonding requirements herein imposed. The word "occasionally" shall mean no more than one trip in any seventy-two hour period or two trips into or through the state of North Dakota in any one month. Such occasional trip permits shall be issued by the tax commissioner or his agent for a fee of five dollars per trip pursuant to regulations and procedures prescribed by the tax commissioner.

Approved March 17, 1977

CHAPTER 556

HOUSE BILL NO. 1042
(Legislative Council)
(Interim Committee on Industry, Business & Labor "A")

MOBILE HOME TAX ABATEMENT PROCEDURE

AN ACT to create and enact a new section to chapter 57-55 of the North Dakota Century Code, relating to actions brought to abate taxes assessed on mobile homes.

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

SECTION 1.) A new section to chapter 57-55 of the North Dakota Century Code is hereby created and enacted to read as follows:

PROCEDURE FOR ABATEMENT OR COMPROMISE OF TAX.) Any person having any estate, right, title, or interest in or lien upon any mobile home which has been assessed for taxation purposes pursuant to this chapter may apply for abatement or compromise, as the case may be, pursuant to chapter 57-23. The application shall be made in writing on the form prescribed by the tax commissioner and shall be filed in triplicate with the county auditor of the county where the mobile home was assessed within six months after the tax imposed by this chapter becomes due, or at any time during the taxable year that a mobile home qualifies under the provisions of section 57-55-10. The county auditor shall promptly serve the county director of tax equalization with one copy of the application. The abatement or compromise shall be granted by the county commissioners if the facts upon which the application is based establish that the assessment contains error, or that the value placed upon the mobile home by the county director of tax equalization was excessive, or that the mobile home is exempt from taxation pursuant to section 57-55-10. The decision of the county commissioners may be reviewed and considered by the tax appeals board pursuant to chapter 57-23.1.

Approved March 14, 1977

CHAPTER 557

HOUSE BILL NO. 1085
(Gackle)

MOBILE HOME TAX EXEMPTIONS

AN ACT to amend and reenact subsection 2 of section 57-55-10 of the North Dakota Century Code, relating to the exemption of mobile homes from taxation.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 57-55-10 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The provisions of this chapter shall not apply to a mobile home which:
 - a. Is used only for the temporary living quarters of the owner or other occupant while such person is engaged in recreational or vacation activities, provided that such unit displays a current travel trailer license.
 - b. Qualifies as a farm residence as described by subsection 15 of section 57-02-08, provided such mobile home is permanently attached to the ground.
 - c. Is permanently attached to a foundation and is assessed as real property, provided the owner of such mobile home also owns the land on which such mobile home is located.
 - d. Is owned by a licensed mobile home dealer who holds such mobile home solely for the purpose of resale, and provided that such mobile home is not used as living quarters or as the place for the conducting of any business.

Approved March 17, 1977

CHAPTER 558

SENATE BILL NO. 2343
(Goodman)

COAL CONVERSION PRIVILEGE TAX PAYMENT AND DISTRIBUTION

AN ACT to amend and reenact subsection 2 of section 57-60-04 and subsections 1 and 3 of section 57-60-15 of the North Dakota Century Code, relating to the payment of the coal conversion facilities tax by coal gasification plants and to provisions of the distribution formula for coal conversion facilities taxes.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 57-60-04 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The taxes levied under subsections 1 and 3 of section 57-60-02 shall become due and payable to the commissioner on the fifteenth day of June in the year in which such taxes are levied. Such taxes shall become delinquent on the first day of July following, and, if not paid on or before such date, shall be subject to a penalty as provided in section 57-60-09.

SECTION 2. AMENDMENT.) Subsections 1 and 3 of section 57-60-15 of the 1975 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- * 1. Fifteen percent of all revenues allocated to any county shall be paid by the county treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census;
- * 3. Forty-five percent of all revenues allocated to any county shall be apportioned by the county treasurer to school districts within the county on the average daily membership basis, as certified to him by the county superintendent of schools.

*NOTE: Subsections 1 and 3 of section 57-60-15 were also amended by section 2 of House Bill No. 1587, chapter 559.

CHAPTER 559

HOUSE BILL NO. 1587
(Gunsch, Christensen, Hickle)

COAL CONVERSION PRIVILEGE TAX ALLOCATION

AN ACT to amend and reenact sections 57-60-14 and 57-60-15 of the North Dakota Century Code, relating to the allocation of revenue formulas for the privilege tax on coal conversion facilities.

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

SECTION 1. AMENDMENT.) Section 57-60-14 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-14. ALLOCATION OF REVENUE.) The state treasurer, on or before July fifteenth of each year, shall allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter and moneys received for those taxes for which a credit is allowed pursuant to section 57-60-06, notwithstanding the provisions of section 57-33.1-08, thirty-five percent to the county and sixty-five percent to the state general fund.

SECTION 2. AMENDMENT.) Section 57-60-15 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-15. DUTY OF COUNTY TREASURER - ALLOCATION TO POLITICAL SUBDIVISIONS.) Moneys received by counties under the provisions of section 57-60-14 shall be apportioned as follows:

- * 1. Thirty percent of all revenues allocated to any county shall be paid by the county treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census.
2. Forty percent of the revenues allocated to any county shall be deposited by the county treasurer in the county general fund to be used for general governmental purposes.

- * 3. Thirty percent of all revenues allocated to any county shall be apportioned by the county treasurer to school districts within the county on the average daily membership basis, as certified to him by the county superintendent of schools.

*NOTE: Subsections 1 and 3 of section 57-60-15 were also amended by section 2 of Senate Bill No. 2343, chapter 558.

Approved April 20, 1977

CHAPTER 560

HOUSE BILL NO. 1262
(Strinden)

COAL SEVERANCE TAX AND IMPACT PROGRAM

AN ACT to provide for a severance tax upon all coal mined; to provide procedures for the imposition, collection, and administration of such tax; to provide for the allocation of moneys collected; to provide an impact program for impacted school districts, cities, counties, and other taxing districts; to provide for the establishment of a coal impact office in the office of the governor; to provide for impact loans to be administered by the board of university and school lands; to provide a penalty; and to provide that the provisions of this Act shall be temporary.

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

SECTION 1. SEVERANCE TAX UPON COAL - IMPOSITION - COMPUTATION OF INCREASES - IN LIEU OF SALES AND USE TAXES - PAYMENT TO THE TAX COMMISSIONER.) There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax in an amount to be determined as follows:

1. Sixty-five cents per ton of two thousand pounds; and
2. For every one point increase in the index of wholesale prices for all commodities prepared by the United States department of labor, bureau of labor statistics, the amount of the severance tax provided in subsection 1 shall be increased one cent per ton of two thousand pounds. For the purposes of this computation, a fractional point increase shall be disregarded if less than one-half point and treated as one full point if one-half point or more. The state tax commissioner shall determine such increases based upon increases in the wholesale price index from the level of such index as of June 1977 to the level of such index as of the last month of the quarter immediately preceding the quarter for which any taxes are due. At no time shall the amount of the severance tax be reduced. If the wholesale price index declines, the severance tax shall remain at the highest level determined prior to such decline, and shall remain at such level until further increases are warranted because of further increases in the wholesale price index beyond the point at which the last increase was determined.

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

SECTION 2. WHEN TAX DUE - WHEN DELINQUENT.) The severance tax as provided in this chapter shall be due within thirty days after the end of each quarter, and if not received by the thirtieth day, shall become delinquent and shall be collected as herein provided. The tax commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax, and when such a request is granted, the tax shall not be delinquent until the extended period has expired. The tax commissioner shall require a report to be filed quarterly by each owner or operator of a coal mine, in such form as the tax commissioner may specify, to list a full description of the mine, the number of tons of coal severed, the amount of tax due and remitted, and any other information deemed necessary by the tax commissioner for the proper administration of this chapter.

SECTION 3. POWERS OF STATE TAX COMMISSIONER.) The state tax commissioner shall have the power to require any person engaged in such production, and the agent or employee of such person, or purchaser of such coal, or the owner of any royalty interest therein, to furnish any additional information by him deemed to be necessary for the purpose of correctly computing the amount of said tax, and to examine the books, records, and files of such person, and shall have power to conduct hearings and compel the attendance of witnesses, the production of books, records, and papers of any person, and full authority to make any investigation or hold any inquest deemed necessary to a full and complete disclosure of the true facts as to the amount of production from any coal mine or of any company or other producer thereof, and as to the rendition thereof for taxing purposes.

SECTION 4. TAX COMMISSIONER TO COMPUTE TAX ON INCORRECT RETURNS.) The state tax commissioner shall have the power and authority to ascertain and determine whether or not any report or remittances filed with him are correct, and if the owner or operator has made an untrue or incorrect report or remittance, the commissioner shall ascertain the correct amount of taxes due, and give immediate notice to the owner or operator filing the incorrect return or remittance. Any coal mine operator or owner receiving notice from the tax commissioner that he has filed an incorrect return or remittance shall remit the tax assessed by the commissioner within fifteen days of such notice. Any owner or operator aggrieved by a decision of the tax commissioner may make application in writing within fifteen days of notification for a hearing which shall be granted not later than fifteen days after receipt of the

application. The tax commissioner may grant or reject, in whole or in part, the contentions of the owner or operator and upon conclusion of the hearing shall proceed to make a final determination of taxes due. Such taxes assessed by the commissioner shall become delinquent five days after the conclusion of the hearing, except in such cases where an owner or operator shall appeal such assessment to the district court of Burleigh County, in which case they shall become delinquent five days following final judicial determination.

SECTION 5. PENALTY ON DELINQUENCY - FAILURE TO FILE REPORTS.) Where the severance tax provided for in this chapter shall become delinquent, it shall, as a penalty for such delinquency, bear interest at the rate of eight percent per annum. If the quarterly report is not filed within thirty days after the end of any quarter and taxes due paid, the tax commissioner shall notify the delinquent owner or operator of such delinquency, and if such report and remittance are not filed within an additional fifteen days, the tax commissioner shall notify the public service commission, which shall forthwith suspend such owner's or operator's license or permit until such time as payment is received, or the issues settled to the satisfaction of the tax commissioner.

SECTION 6. LIEN FOR TAX.) The severance tax herein referred to shall, at all times, be and constitute a first and paramount lien against the producer's property as the case may be, both real and personal. In all cases where such tax is not paid, it may be recovered in a civil action by the state tax commissioner, brought in the name of the state, in any court of competent jurisdiction of the county where any such property, assets, and effects are located.

SECTION 7. APPEAL FROM DECISION OF TAX COMMISSIONER.) Any person aggrieved because of any action or decision of the tax commissioner under the provisions of sections 1 through 8 of this Act may appeal to the district court of Burleigh County.

SECTION 8. RULES AND REGULATIONS - BOND.) The tax commissioner is hereby authorized and empowered to prescribe and promulgate all necessary rules and regulations for the purpose of making and filing of all reports required hereunder and otherwise necessary to the enforcement of sections 1 through 8 of this Act, and may, at his option and discretion, require a sufficient bond from any coal mine operator or owner charged with the making and filing of reports and the payment of the taxes herein imposed, and said bond shall run to the state of North Dakota and shall be conditioned upon the making and filing of reports as required by law or regulation, and for the prompt payment, by the principal therein, of all taxes justly due the state by virtue of the provisions of sections 1 through 8 of this Act.

SECTION 9. PENALTY.) Any person intentionally violating any of the provisions of sections 1 through 8 of this Act is guilty of a class A misdemeanor.

SECTION 10. COAL DEVELOPMENT FUND ESTABLISHED.) Moneys collected by the state tax commissioner pursuant to the provisions of sections 1 through 9 of this Act shall be paid to the state treasurer and shall be credited to a special fund in the state treasury, to be known as the coal development fund. The moneys accumulated in such fund shall be allocated as provided by law and as appropriated by the legislative assembly.

SECTION 11. DEFINITIONS.) As used in sections 11 through 15 of this Act, unless the context or subject matter otherwise requires:

1. "Coal development" means the mining of coal and industries directly related to the processing of coal, including, but not limited to: the generation of electricity from coal or coal products, coal gasification, coal liquefaction, and the manufacture of fertilizer from coal.
2. "Impacted city" means a city which demonstrates actual or anticipated extraordinary expenditures caused by coal development and the growth incidental thereto.
3. "Impacted county" means a county which demonstrates actual or anticipated extraordinary expenditures caused by coal development and the growth incidental thereto.
4. "Impacted school district" means a public school district which demonstrates actual or anticipated extraordinary expenditures caused by coal development and the growth incidental thereto.
5. "Impacted taxing district" means a taxing district as defined in subsection 6 of this section which demonstrates actual or anticipated extraordinary expenditures caused by coal development and the growth incidental thereto.
6. "Taxing district" means any political subdivision, other than those included in subsections 2 through 4 of this section, empowered by law to levy taxes.

SECTION 12. ALLOCATION OF MONEYS IN COAL DEVELOPMENT FUND.) Moneys deposited in the coal development fund shall be apportioned quarterly by the state treasurer as follows:

1. Thirty-five percent shall be credited to a special fund in the state treasury for distribution through grants by the coal development impact office to impacted cities, counties, school districts, and other taxing districts, subject to appropriation by the legislative assembly.
2. Fifteen percent shall be credited to a special fund in the state treasury to be held in trust to be administered by the board of university and school lands for loans to impacted counties, cities, and school districts as provided in section 13 of this Act. The board

of university and school lands shall have full authority to invest such funds as are not loaned as provided in this chapter and may consult with the state investment board as provided by law. The income, including interest payments on loans, from such trust shall be deposited in the state's general fund. Loan principal payments shall be redeposited in the trust fund. Such trust fund shall be perpetual and held in trust as a replacement for depleted natural resources subject to the provisions of this chapter.

3. Twenty percent shall be allocated to the coal-producing counties and shall be distributed among such counties in such proportion as the number of tons of coal severed in each county bears to the total number of tons of coal severed in the state during such quarterly period. Such allocations shall be apportioned as follows:
 - a. Thirty percent shall be paid by the county treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census;
 - b. Forty percent shall be deposited by the county treasurer in the county general fund to be used for general governmental purposes; and
 - c. Thirty percent shall be apportioned by the county treasurer to school districts within the county on the average daily membership basis, as certified to him by the county superintendent of schools.
4. Thirty percent shall be deposited in the state's general fund.

SECTION 13. LOANS - TERMS AND CONDITIONS - REPAYMENT.) The board of university and school lands is authorized to make loans to impacted counties, cities, and school districts from moneys deposited in the trust fund established by subsection 2 of section 12 of this Act. Loans may be made for any purpose for which a grant may be made pursuant to this chapter, but before making any loan the board of university and school lands shall receive the recommendation of the coal development impact office. The board of university and school lands shall prescribe the terms and conditions of such loans within the provisions of this chapter and shall require a warrant executed by the governing body of the county, city, or school district as evidence of such loan. The warrants shall bear interest at a rate not to exceed six percent. The warrants shall be payable only from the allocations of moneys from the coal development fund to the borrowing county, city, or school district and shall not constitute a general obligation of the county, city, or school district nor shall such loans be considered as indebtedness of the county, city, or school district. The terms

of the loan shall provide that not less than ten percent of each allocation made to the borrowing county, city, or school district pursuant to this chapter shall be withheld by the state treasurer to repay the principal of the warrants and the interest thereon. The amount withheld by the state treasurer as payment of interest shall be deposited in the general fund and the amount withheld by the state treasurer as payment of principal shall be remitted to the board of university and school lands and deposited by the board in the trust fund provided for in subsection 2 of section 12 of this Act. The warrants executed by the county, city, or school district shall have all of the qualities and incidents of negotiable paper, and shall not be subject to taxation by the state of North Dakota or by any political subdivision thereof.

The board of university and school lands is authorized to sell such warrants to other parties and the proceeds of such sale which constitute principal shall be deposited in the trust fund and that which constitutes interest in the general fund. If the future allocations of moneys to the borrowing county, city, or school district should, for any reason, permanently cease, the loan shall be canceled except that if the county, city, or school district is merged with another county, city, or school district which receives an allocation of moneys from the coal development fund, the surviving county, city, or school district shall be obligated to repay the loan from such allocation. If the loan is canceled due to the permanent cessation of allocations of moneys to the county, city, or school district pursuant to this chapter, the board of university and school lands shall cancel those warrants it holds from such county, city, or school district and shall pay from any moneys in the trust fund provided for in subsection 2 of section 12 of this Act the principal and interest, as it becomes due, on those warrants of the county, city, or school district which are held by another party.

SECTION 14. COAL DEVELOPMENT IMPACT OFFICE - APPOINTMENT OF DIRECTOR.) There is hereby created in the office of the governor a coal development impact office. The director shall be appointed by and shall serve at the pleasure of the governor. The salary of the director shall be set by the governor within the limits of legislative appropriations. The director may employ such other persons as may be necessary and may fix their compensation within the appropriation made for such purpose.

SECTION 15. POWERS AND DUTIES OF COAL DEVELOPMENT IMPACT OFFICE.) The coal development impact office shall:

1. Develop a plan for the assistance, through financial grants for services and facilities, of counties, cities, school districts, and other political subdivisions in a coal development impact area.
2. Advise, study, recommend, and report to the governor and the legislative assembly on the impact to the state and the political subdivisions of the state resulting from coal development.

3. Establish procedures and provide proper forms to political subdivisions for use in making application for funds for impact assistance as provided in this chapter.
4. Make grants to counties, cities, school districts, and other taxing districts as provided in this chapter and within the appropriations made for such purposes. In determining the amount of impact grants for which political subdivisions are eligible, the amount of revenue to which such political subdivisions will be entitled from taxes upon the real property of coal development plants and from other tax or fund distribution formulas provided by law shall be considered.

SECTION 16. PROVISIONS OF ACT TEMPORARY.) The provisions of this Act shall be effective for the period beginning July 1, 1977, and ending June 30, 1979, and thereafter shall be of no force and effect unless reenacted by the legislative assembly.

Not approved or disapproved by the Governor

Filed April 22, 1977