

TAXATION

CHAPTER 544

HOUSE BILL NO. 1450

(Representatives Gulleason, Aarsvold, Austin)

FEDERAL OFFER AND COMPROMISE LIABILITY REDUCTION

AN ACT to amend and reenact subsection 14 of section 57-01-02 of the North Dakota Century Code, relating to authority of the tax commissioner to reduce tax liability based on a federal offer and compromise.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁶⁶ SECTION 1. AMENDMENT. Subsection 14 of section 57-01-02 of the North Dakota Century Code is amended and reenacted as follows:

14. May, upon a showing of good cause, waive any and all tax due. A lien must have been filed against the debtor's property prior to the request for a waiver. The waiver must be approved by the attorney general. Notwithstanding the provisions of this section, if a debtor and the internal revenue service enter into an offer and compromise pursuant to section 7122 of the Internal Revenue Code [26 U.S.C. 7122], as amended, the tax commissioner may reduce a debtor's individual income tax liability. However, if the federal offer and compromise, for any reason, is subsequently declared void by the internal revenue service, the debtor is liable for the original amount of tax due.

Approved March 21, 1995
Filed March 23, 1995

²⁶⁶ Section 57-01-02 was also amended by section 52 of House Bill No. 1026, chapter 350.

CHAPTER 545**SENATE BILL NO. 2452**
(Senators W. Stenehjem, C. Nelson)
(Representatives Mahoney, Maragos)**CONTROLLED SUBSTANCE TAX IMPOSITION**

AN ACT to provide for the sale of controlled substance tax stamps as novelties by the tax commissioner; to repeal chapter 57-36.1 of the North Dakota Century Code, relating to the imposition of the controlled substance tax; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Sale of tax stamps as novelties. The tax commissioner may sell controlled substance tax stamps that have been made pursuant to chapter 57-36.1 as novelties for not more than ten dollars per stamp, inclusive of sales tax.

SECTION 2. REPEAL. Chapter 57-36.1 of the North Dakota Century Code is repealed.

SECTION 3. EXPIRATION DATE. Section 1 of this Act is effective through June 30, 1997, and after that date is ineffective.

Approved March 31, 1995
Filed April 3, 1995

CHAPTER 546**HOUSE BILL NO. 1202**

(Representatives Rennerfeldt, Grosz, Johnson, Kempenich)
(Senators Bowman, Wanzek)

**NONTRADITIONAL LIVESTOCK FARM BUILDING TAX
EXEMPTION**

AN ACT to amend and reenact subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the farm buildings property tax exemption as it applies to producers of nontraditional livestock; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁶⁷ **SECTION 1. AMENDMENT.** Subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

15. a. All farm structures and improvements located on agricultural lands. This subsection shall be construed to exempt farm buildings and improvements only, and shall not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence. Any structure or improvement used in connection with a retail or wholesale business other than farming, any structure or improvement located on platted land within the corporate limits of a city, or any structure or improvement located on railroad operating property subject to assessment under chapter 57-05 is not exempt under this subsection.
- b. It is the intent of the legislative assembly that this exemption as applied to a residence shall be strictly construed and interpreted to exempt only a residence which is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption shall not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:
 - (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, with not less than fifty percent of his annual net income.

²⁶⁷ Section 57-02-08 was also amended by section 1 of House Bill No. 1396, chapter 547.

- (2) "Farmer" means an individual who normally devotes the major portion of his time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state and who normally receives not less than fifty percent of his annual net income from any one or more of the foregoing activities; and the term also includes an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer as defined above the residence in which he lives and for which the exemption is claimed.
- (3) "Net income from farming activities" described in paragraph 2 means taxable income from those activities as computed for income tax purposes pursuant to chapter 57-38 adjusted to include the following:
 - (a) The difference between gross sales price less expenses of sale and the amount reported for sales of agricultural products for which the farmer reported a capital gain.
 - (b) Interest expenses from farming activities which have been deducted in computing taxable income.
- (4) For purposes of applying the income requirements of this subdivision, if a husband and wife reside together in a residence claimed as exempt under this subdivision because both or one of them is a farmer, not less than fifty percent of their combined net income from all sources must be net income from farming activities as defined in paragraph 3 in order for the residence to qualify for the exemption.
- (5) When exemption is claimed under this subdivision for a residence, the assessor may require that the occupant of the residence who it is claimed is a farmer provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that fifty percent or more of the net income of that occupant was, or was not, net income from farming activities; provided, that if that occupant is married and they both occupy the residence, it shall be stated in the written statement that their net income from farming activities was, or was not, fifty percent or more of their combined net income from all sources.
- (6) In addition to any of the provisions of this subsection or any other provision of law, a residence situated on agricultural land is not exempt for the year if it is occupied by an individual engaged in farming who had nonfarm income, including that of a spouse if married, of more than thirty thousand dollars during each of the three preceding calendar years. The provisions of this paragraph do not apply to an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which he lives and for which the exemption is claimed.

- (7) For purposes of this section, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1994.

Approved March 7, 1995

Filed March 8, 1995

CHAPTER 547

HOUSE BILL NO. 1396
(Representatives Timm, Kretschmar)
(Senators Kinnoin, W. Stenehjem)**RAILROAD PERSONAL PROPERTY TAX EXEMPTION**

AN ACT to amend and reenact subsection 25 of section 57-02-08 of the North Dakota Century Code, relating to a tax exemption for personal property of railroads; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁶⁸ SECTION 1. AMENDMENT. Subsection 25 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

25. All personal property ~~not is exempt except:~~
- a. Personal property of entities, other than railroads, required by section 4 of article X of the Constitution of North Dakota to be assessed by the state board of equalization ~~shall become exempt from assessment and taxation in the year 1970 and such property shall not be assessed or taxed for that year or for any year thereafter; provided, that this provision shall not apply to any.~~
 - b. Any property that is ~~either~~ subjected to a tax which is imposed in lieu of ad valorem taxes ~~or to any.~~
 - c. Any particular kind or class of personal property, including mobile homes or house trailers, that is subjected to a tax imposed pursuant to any other provision of law ~~except as specifically provided in this subsection.~~

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1994.

Approved March 10, 1995
Filed March 13, 1995

²⁶⁸ Section 57-02-08 was also amended by section 1 of House Bill No. 1202, chapter 546.

CHAPTER 548

HOUSE BILL NO. 1142

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

TAX LIENS FILING

AN ACT to amend and reenact subsection 3 of section 57-02-08.3, sections 57-38-49, 57-38-50, subsections 3, 4, 5, and 6 of section 57-39.2-13, subsections 3, 4, 5, and 6 of section 57-40.2-16, subsections 2, 3, and 4 of section 57-40.3-07.1, subsections 3, 4, and 6 of section 57-43.1-17.4, and subsections 3, 4, and 6 of section 57-43.2-16.3 of the North Dakota Century Code, relating to the filing of tax liens with the secretary of state; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 57-02-08.3 of the North Dakota Century Code is amended and reenacted as follows:

3. a. Any credit allowed under subsection 1, plus interest in the amount of nine percent per year from the time the credit is taken, ~~shall create~~ creates a lien in favor of the state against the property upon which the special assessment credit is allowed and ~~shall remain~~ remains a lien upon the property from the time the credit is allowed until the lien is fully satisfied by depositing the amount of the lien in the state general fund. If the amount of the lien exceeds the market value of the property, the state may accept the amount of the market value of the property as payment in full on the lien.
- b. (1) Except as otherwise provided in this subdivision, ~~no~~ a transfer of title to the homestead because of sale, death, or otherwise ~~shall may not~~ be made without the lien being satisfied. When a credit under subsection 1 is allowed, the county auditor shall cause a notice of lien of record to be filed against subject property with the ~~register of deeds~~ secretary of state.
- (2) When a transfer occurs between spouses because of the death of one of them, the lien allowed by this section need not be satisfied until the property is again transferred.
- c. This lien ~~shall have~~ has precedence over all other liens except general tax liens and prior special assessment liens and shall not be divested at any judicial sale. ~~No~~ A mistake in the description of the property covered by this lien or in the name of the owner of ~~such~~ the property ~~shall does not~~ defeat the lien if the property can be identified by the description in the special assessment list.

SECTION 2. AMENDMENT. Section 57-38-49 of the North Dakota Century Code is amended and reenacted as follows:

57-38-49. Preservation of lien. In order to preserve the lien provided for in section 57-38-48 against subsequent mortgagees, purchasers, or judgment creditors,

for value and without notice of the lien, on any property situated in any county the state, the ~~tax~~ commissioner shall file with the register of deeds of the county in which said property is located secretary of state a notice of said the lien. The register of deeds of each county secretary of state shall prepare and keep in his office a book to be known as index of tax liens; so ruled as to show in appropriate columns enter in the central indexing system the following data, under the names of taxpayers arranged alphabetically:

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

The ~~register of deeds~~ secretary of state shall endorse on each notice of lien the day, hour, and minute when received and shall preserve the same, and ~~forthwith~~ shall index ~~said the~~ notice in the ~~index book~~ central indexing system. ~~Such~~ The lien is effective as against subsequent creditors, purchasers, and encumbrances from the time of the ~~filing thereof~~ indexing. Any notice of lien filed by the commissioner with a register of deeds prior to the effective date of this Act may be refiled with the secretary of state without changing its original priority in the county where the lien was filed. The ~~register of deeds~~ secretary of state shall accept any ~~such~~ lien for filing when it is received with no payment of fees or costs to be made on behalf of the ~~tax~~ commissioner.

SECTION 3. AMENDMENT. Section 57-38-50 of the North Dakota Century Code is amended and reenacted as follows:

57-38-50. Satisfaction of lien. Upon the payment of a tax, together with any penalties and interest attached, as to which the ~~tax~~ commissioner has filed a notice of lien with the ~~register of deeds~~ secretary of state, the ~~tax~~ commissioner ~~forthwith~~ shall file with ~~said register of deeds~~ the secretary of state a satisfaction of ~~such the~~ tax and lien and the ~~register of deeds~~ secretary of state shall enter ~~such the~~ satisfaction on the notice on file ~~in his office~~ and shall indicate that fact on the ~~index~~ central indexing system with no payment of fees or costs to be made on behalf of the tax commissioner.

SECTION 4. AMENDMENT. Subsections 3, 4, 5, and 6 of section 57-39.2-13 of the North Dakota Century Code are amended and reenacted as follows:

3. In order to preserve the ~~aforsaid~~ lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county the state, the commissioner shall file with the ~~register of deeds of the county in which said property is located~~ secretary of state, a notice of said the lien.
4. The ~~register of deeds of each county~~ secretary of state shall prepare and keep in his office a book known as "Index of Tax Liens"; so ruled as to show in appropriate columns all of enter in the central indexing system

the following data, under the names of taxpayers, arranged alphabetically:

- a. The name of the taxpayer.
- b. The name "State of North Dakota" as claimant.
- c. Time notice of lien was received.
- d. Date of notice.
- e. Amount of lien when then due.
- f. When satisfied.

The ~~register of deeds~~ secretary of state shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and ~~forthwith~~ shall index ~~said~~ the notice in ~~said index book~~ the central indexing system and the ~~said~~ lien is effective from the time of ~~the~~ indexing thereof. Any notice of lien filed by the commissioner with a register of deeds before the effective date of this Act may be refiled with the secretary of state without changing its original priority in the county where the lien was filed.

5. The commissioner is exempt from the payment of the filing fees as otherwise provided by law for the filing of ~~such~~ the lien, or for ~~the~~ its satisfaction ~~thereof~~.
6. Upon the payment of a tax ~~as to~~ which the commissioner has filed notice with the ~~register of deeds~~ secretary of state, the commissioner ~~forthwith~~ shall file with ~~said register of deeds~~ the secretary of state a satisfaction of ~~said~~ the tax and the ~~register of deeds~~ secretary of state shall enter ~~said~~ the satisfaction on the notice on file in ~~his office~~ and indicate ~~said~~ that fact ~~on~~ in the ~~index aforesaid~~ central indexing system.

SECTION 5. AMENDMENT. Subsections 3, 4, 5, and 6 of section 57-40.2-16 of the North Dakota Century Code are amended and reenacted as follows:

3. In order to preserve the ~~aforesaid~~ lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in ~~a county~~ the state, the commissioner shall file with the ~~register of deeds of the county in which said property is located~~ secretary of state, a notice of ~~said~~ the lien.
4. The ~~register of deeds of each county~~ secretary of state shall ~~prepare and keep in his office a book known as "Index of Tax Liens", so ruled as to show in appropriate columns all of~~ enter in the central indexing system the following data, under the names of taxpayers, arranged alphabetically:
 - a. The name of the taxpayer.
 - b. The name "State of North Dakota" as claimant.
 - c. Time notice of lien was received.

- d. Date of notice.
- e. Amount of lien then due.
- f. When satisfied.

The ~~register of deeds~~ secretary of state shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and ~~forthwith~~ shall index ~~said~~ the notice in ~~said index books and forthwith shall record said lien in the manner provided for recording real estate mortgages~~ the central indexing system, and the ~~said~~ lien is effective from the time of ~~the~~ indexing thereof. Any notice of lien filed by the commissioner with a register of deeds before the effective date of this Act may be refiled with the secretary of state without changing its original priority in the county where the lien was filed.

- 5. The commissioner is exempt from the payment of the recording and filing fees as otherwise provided by law for the recording and filing of ~~such~~ the lien, or for ~~the~~ its satisfaction ~~thereof~~.
- 6. Upon the payment of a tax ~~as to~~ which the commissioner has filed notice with the ~~register of deeds~~ secretary of state, the commissioner ~~forthwith~~ shall file with ~~said register of deeds~~ the secretary of state a satisfaction of ~~said~~ the tax and the ~~register of deeds~~ secretary of state shall enter ~~said~~ the satisfaction on the notice on file ~~in his office~~ and indicate ~~said~~ that fact ~~on~~ in the ~~index aforesaid~~ central indexing system.

SECTION 6. AMENDMENT. Subsections 2, 3, and 4 of section 57-40.3-07.1 of the North Dakota Century Code are amended and reenacted as follows:

- 2. In order to preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in ~~a county~~ the state, the ~~tax~~ commissioner shall file with the ~~register of deeds of the county in which the property is located~~ secretary of state, a notice of the lien.
- 3. The ~~register of deeds of each county~~ secretary of state shall ~~prepare and keep in his office a book known as "Index of Tax Liens"; so ruled as to show in appropriate columns all of~~ enter in the central indexing system the following data, under the names of taxpayers, arranged alphabetically:
 - a. The name of the taxpayer.
 - b. The name, "State of North Dakota" as claimant.
 - c. The time notice of lien was received.
 - d. The date of notice.
 - e. The amount of the lien ~~when~~ then due.
 - f. When satisfied.

The ~~register of deeds~~ secretary of state shall endorse on each notice of lien the day, hour, and minute received and preserve and index the notice in the ~~index book~~ central indexing system, and the lien is effective from the time of the indexing. Any notice of lien filed by the commissioner with a register of deeds before the effective date of this Act may be refilled with the secretary of state without changing its original priority in the county where the lien was filed. The ~~tax~~ commissioner is exempt from the payment of fees otherwise provided by law for the filing or the satisfaction of ~~such liens~~ the lien.

4. Upon the payment of a tax relative to which the ~~tax~~ commissioner has filed notice with the ~~register of deeds~~ secretary of state, the ~~tax~~ commissioner shall file with the ~~register of deeds~~ secretary of state a satisfaction of the tax, and the ~~register of deeds~~ secretary of state shall enter the satisfaction on the notice on file ~~in his office~~ and indicate that fact ~~on~~ in the ~~index~~ central indexing system.

SECTION 7. AMENDMENT. Subsections 3, 4, and 6 of section 57-43.1-17.4 of the North Dakota Century Code are amended and reenacted as follows:

3. To preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the commissioner shall file a notice of the lien with the ~~register of deeds of the county in which the property is located~~ secretary of state.
4. The ~~register of deeds of each county~~ secretary of state shall ~~prepare and keep in the register of deed's office a book known as "index of tax liens", so ruled as to show in appropriate columns all of~~ enter in the central indexing system the following data, under the names of taxpayers, arranged alphabetically:
 - a. The name of the taxpayer.
 - b. The name "~~state~~ State of North Dakota" as claimant.
 - c. The time notice of lien was received.
 - d. The date of notice.
 - e. The amount of lien ~~when~~ then due.
 - f. The date of satisfaction.

The ~~register of deeds~~ secretary of state shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall index the notice in the ~~index book~~ central indexing system and the lien is effective from the time of indexing. Any notice of lien filed by the commissioner with a register of deeds before the effective date of this Act may be refilled with the secretary of state without changing its original priority in the county where the lien was filed.

6. Upon payment of a tax ~~as to~~ which the commissioner has filed notice with the ~~register of deeds~~ secretary of state, the commissioner shall file with the ~~register of deeds~~ secretary of state a satisfaction of tax and the

~~register of deeds~~ secretary of state shall enter the satisfaction on the notice on file and indicate the fact on the ~~index~~ central indexing system.

SECTION 8. AMENDMENT. Subsections 3, 4, and 6 of section 57-43.2-16.3 of the North Dakota Century Code are amended and reenacted as follows:

3. To preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the commissioner shall file a notice of the lien with the ~~register of deeds of the county in which the property is located~~ secretary of state.
4. The ~~register of deeds of each county~~ secretary of state shall ~~prepare and keep in the register of deed's office a book known as "index of tax liens", so ruled as to show in appropriate columns all of~~ enter in the central indexing system the following data, under the names of taxpayers, arranged alphabetically:
 - a. The name of the taxpayer.
 - b. The name "~~state~~ State of North Dakota" as claimant.
 - c. The time notice of lien was received.
 - d. The date of notice.
 - e. The amount of lien ~~when~~ then due.
 - f. The date of satisfaction.

The ~~register of deeds~~ secretary of state shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall index the notice in the ~~index book~~ central indexing system and the lien is effective from the time of indexing. Any notice of lien filed by the commissioner with a register of deeds before the effective date of this Act may be refiled with the secretary of state without changing its original priority in the county where the lien was filed.

6. Upon payment of a tax as to which the commissioner has filed notice with the ~~register of deeds~~ secretary of state, the commissioner shall file with the ~~register of deeds~~ secretary of state a satisfaction of tax and the ~~register of deeds~~ secretary of state shall enter the satisfaction on the notice on file and indicate the fact ~~on~~ in the ~~index~~ central indexing system.

SECTION 9. EFFECTIVE DATE. This Act is effective for tax liens filed on or after July 1, 1996.

Approved March 6, 1995
Filed March 6, 1995

CHAPTER 549**SENATE BILL NO. 2524**

(Senator Kelsh)

(Representative Gulleason)

IRRIGATED CROPLAND ASSESSMENTS

AN ACT to amend and reenact section 57-02-27.2 of the North Dakota Century Code, relating to consideration of irrigation in the valuation of cropland; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. Total the annual gross returns for the most recent six years immediately preceding the current year for which data is available and discard the highest and lowest annual gross returns of the six.
2. Divide the figure arrived at in subsection 1 by four.

To find the "capitalized average annual gross return" for years after 1983, the average annual gross return must be capitalized by a rate which is a ten-year average of the gross federal land bank mortgage rate of interest for North Dakota. The ten-year average must be computed from the twelve years ending with the most recent year used in subsection 1, discarding the highest and lowest years, and the gross federal land bank mortgage rate of interest for each year must be determined in the manner provided in section 20.2032A-4(e)(1) of the United States treasury department regulations for valuing farm real property for federal estate tax purposes, except that the interest rate may not be adjusted as provided in paragraph (e)(2) of section 20.2032A-4.

It is the duty of the agricultural economics department of North Dakota state university to compute annually an estimate of the average agricultural value per acre [.40 hectare] of agricultural lands on a statewide and on a countywide basis, to

compute the average agricultural value per acre [.40 hectare] for cropland and noncropland, which is agricultural land, for each county, and to provide the tax commissioner with this information by December first of each year. Fifty percent of the annual gross income from irrigated cropland must be considered additional expense of production and may not be included in computation of the average agricultural value per acre [.40 hectare] for cropland for the county as determined by the agricultural economics department. Prior to January first of each year, the tax commissioner shall provide to each county director of tax equalization these estimates of agricultural value for each county.

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

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

SECTION 2. EFFECTIVE DATE - EXPIRATION DATE. This Act is effective for the first three taxable years beginning after December 31, 1994, and is thereafter ineffective.

Approved April 13, 1995
Filed April 18, 1995

CHAPTER 550**SENATE BILL NO. 2074**

(Legislative Council)
(Interim Natural Resources Committee)
(Senator Nalewaja)
(Representatives D. Henegar, Coats, Hanson)

GAME AND FISH PAYMENTS IN LIEU OF TAXES

AN ACT to amend and reenact subsection 1 of section 57-02.1-05 and section 57-02.1-06 of the North Dakota Century Code, relating to payments in lieu of real estate taxes made by the game and fish department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 57-02.1-05 of the North Dakota Century Code is amended and reenacted as follows:

1. Upon receipt of the decision of the state board of equalization, the director of the game and fish department shall compute the payments due to the counties in which property subject to valuation is located by extending the mill levies which apply to other taxable property in the taxing districts in which the property is located. The mill levies must be extended against the property subject to valuation in the same manner as used for other taxable property in the taxing districts. If the property subject to valuation is leased or held by lease or license from the United States, the director of the game and fish department shall deduct from the payment due to the county any amount paid to that county by the United States or any agency or instrumentality of the United States in lieu of real estate taxes on that property, up to a maximum of seventy-five cents per acre [hectare]. The payments due to each county are the figure determined as herein provided. No county may receive less in these payments for any parcel or tract of land for any year than the county received in payments made pursuant to this chapter for 1974.

SECTION 2. AMENDMENT. Section 57-02.1-06 of the North Dakota Century Code is amended and reenacted as follows:

57-02.1-06. Allocation of revenue within counties. The revenue to which the county level of government is entitled must be determined according to the proportion the county mill levy on other real property bears to the total mill levies on real property of each taxing district wherein the property subject to valuation is located. The revenue remaining after apportionment to the county level must be apportioned and distributed among the various taxing districts in which the property for which payments are made is located by the county auditor upon a pro rata basis to be determined according to the proportion the assessed value of the property subject to valuation in each taxing district bears to the total assessed value of all such property subject to valuation within the county. However, if the property subject to valuation is leased or held by lease or license from the United States, the payment made by the director of the game and fish department must be apportioned and distributed among the various taxing districts, other than the county, in which the property for which payments are made is located, by the county auditor upon a pro rata basis to be determined according to the proportion the assessed value of the

property subject to valuation in each taxing district bears to the total assessed value of all such property subject to valuation within the county. The amount of revenue allocated to each taxing district in which ~~such~~ the property subject to valuation is located must be divided among the various funds of ~~such~~ the district according to the proportion that the mill levy for any fund bears to the total of all mill levies spread against other property in the taxing district that is assessed and taxed on an ad valorem basis.

Approved April 11, 1995
Filed April 12, 1995

CHAPTER 551

HOUSE BILL NO. 1360
(Representatives Glasheim, Delmore)

BUILDING IMPROVEMENT TAX EXEMPTIONS

AN ACT to amend and reenact section 57-02.2-03 of the North Dakota Century Code, relating to the authority of cities and counties concerning property tax exemptions for improvements to commercial and residential buildings and structures; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-02.2-03 of the North Dakota Century Code is amended and reenacted 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 up to three years from the date of commencement of making the improvements, if the exemption is approved by the governing body of the city, for property within city limits, or the governing body of the county, for property outside city limits. The governing body of the city or county may limit or impose conditions upon exemptions under this section, including limitations on the time during which an exemption is allowed. A resolution adopted by the governing body of the city or county under this section may be rescinded or amended at any time. 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, limited liability company, association, or organization owning real property and ~~claiming~~ seeking an exemption ~~pursuant to the provisions of~~ under 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 based on the resolution of the governing body of the city or county, and if he the assessor determines that the exemption should apply, upon approval of the governing body, the exemption shall be is valid for the three-year prescribed 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.~~

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1994.

Approved April 5, 1995
Filed April 5, 1995

CHAPTER 552**SENATE BILL NO. 2081**

(Legislative Council)
(Interim Taxation Committee)

PROPERTY TAX LEVY LIMITATIONS

AN ACT providing optional property tax levy authority for political subdivisions and providing limitations on that authority; and to provide an effective date and an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Protection of taxpayers and taxing districts. Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section:
 - a. "Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year; and
 - b. "Budget year" means the taxing district's year for which the levy is being determined under this section.
3. A taxing district may elect to levy two percent more in taxable year 1995 and two percent more in taxable year 1996 than the amount levied in dollars in the base year and for taxable years 1997 and 1998 may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
 - a. Reduced by an amount equal to the sum determined by the application of the base year's mill rate for that taxing district to the final base year taxable valuation of any property that is not included in the assessment for the budget year but was included in the assessment for the base year. However, no reduction may be made under this section due to the exemption of the personal property of railroads by enactment of House Bill No. 1396 by the fifty-fourth legislative assembly.
 - b. Increased by an amount equal to the sum determined by the application of the base year's mill rate for that taxing district to the final budget year taxable valuation of any property that was not included in the assessment for the base year but which is included in the assessment for the budget year.

- c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district.
4. A taxing district may levy an amount in dollars equal to the amount levied in any of the previous three years reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district and increased by an amount equal to the sum determined by the application of any unused mill levy authority from that year, which was authorized by law or by the electors of that taxing district but not levied for that year, to the budget year taxable valuation of the taxable property in that taxing district. A taxing district electing to increase its levy under this subsection may not add any amount permitted by subsection 3 to the amount levied under this subsection.
5. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
6. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
 - a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
 - b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
7. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.
8. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

SECTION 2. Protection of taxpayers and taxing districts. Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section:

- a. "Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year;
 - b. "Budget year" means the taxing district's year for which the levy is being determined under this section; and
 - c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the exempt property calculated in the same manner as taxable property.
3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
 - a. Reduced by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable and exempt property that is not included in the taxing district for the budget year but was included in the taxing district for the base year.
 - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable and exempt property that was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
 - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district.
4. A taxing district may levy an amount in dollars equal to the amount levied in any of the previous three years reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district and increased by an amount equal to the sum determined by the application of any unused mill levy authority from that year, which was authorized by law or by the electors of that taxing district but not levied for that year, to the budget year taxable valuation of the taxable property in that taxing district. A taxing district electing to increase its levy under this subsection may not add any amount permitted by subsection 3 to the amount levied under this subsection.
5. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
6. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:

- a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
 - b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
7. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.
 8. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

SECTION 3. EFFECTIVE DATE - EXPIRATION DATE. This Act is effective for the taxable years beginning after December 31, 1994. Section 1 of this Act is effective for the first four taxable years beginning after December 31, 1994, and is thereafter ineffective. Section 2 of this Act is effective for the taxable years beginning after December 31, 1998.

Approved April 18, 1995
Filed April 18, 1995

CHAPTER 553**HOUSE BILL NO. 1333**

(Representatives Brown, DeKrey)

(Senators Traynor, Yockim)

COUNTY ROAD TAX LEVY LIMITATIONS

AN ACT to amend and reenact subsection 1 of section 57-15-06.3 and subsection 17 of section 57-15-06.7 of the North Dakota Century Code, relating to the tax levy for county road programs of farm-to-market and federal-aid roads.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 57-15-06.3 of the North Dakota Century Code is amended and reenacted as follows:

1. The board of county commissioners of any county may prepare a proposed county construction program of farm-to-market and federal-aid roads on the county road system, setting forth a general description of the roads to be constructed, the location of bridges constituting a part of the program, the approximate total mileage, and the priority of construction. After approval of the program by the state department of transportation, the board may submit the program to the electors of the county with the question of levying a tax not exceeding the limitation in subsection 17 of section 57-15-06.7 for the completion of the program by matching, from the proceeds of the tax, federal funds available for federal-aid, secondary and feeder roads, farm-to-market roads, and all roads as provided for under federal-aid highway acts. If the majority of the electors voting on the question approved the program and levy, the board shall levy a tax not in excess of ~~fifteen mills~~ the levy established by the ballot.

²⁶⁹ **SECTION 2. AMENDMENT.** Subsection 17 of section 57-15-06.7 of the North Dakota Century Code is amended and reenacted as follows:

17. A county levying a tax for farm-to-market and federal-aid roads as provided in section 57-15-06.3 may levy a tax not exceeding ~~fifteen mills~~ the levy established by the ballot approved by the electors as provided in that section.

Approved March 7, 1995

Filed March 8, 1995

²⁶⁹ Section 57-15-06.7 was also amended by section 12 of House Bill No. 1214, chapter 61, and section 14 of House Bill No. 1214, chapter 61, which repealed subsection 3.

CHAPTER 554**SENATE BILL NO. 2302**

(Senators W. Stenehjem, DeMers, St. Aubyn)
(Representatives Delmore, Kliniske)

COURT FACILITY LEASES

AN ACT to amend and reenact section 57-15-59 of the North Dakota Century Code, relating to counties' and cities' authority to enter leases for court facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-15-59 of the North Dakota Century Code is amended and reenacted as follows:

57-15-59. Counties' and cities' authority to enter leases for court, correction, and law enforcement facilities and dedicate mill levies. Notwithstanding any other provision of law, counties and cities, including home rule counties and cities, may upon a two-thirds vote of the governing body enter into leases for court facilities, correction centers, jails, and other law enforcement facilities for a term of one year or more but not exceeding twenty years. At the time of entering into such a lease, the governing body shall dedicate the necessary annual mill levies to fund the lease payments, and such dedicated mill levies are irrevocable for the length of the lease. The governing body may levy and dedicate a levy of up to ten mills for such purposes, and this levy is in addition to any mill levy limitations established by law or by a home rule charter. If a governing body enters into a lease with annual payments from revenue from a levy under this section, payments due under the lease are a general obligation of the county or city and backed by the full faith and credit of the county or city. A certified copy of the lease and resolution dedicating a levy under this section must be filed with the county auditor, who shall annually levy the mills set forth in the resolution for the entire term of the lease, unless the governing body provides the county auditor with a certified copy of a resolution providing that the county or city has funds available for all or part of the next year's lease payment and that no part or only a portion of the mills originally dedicated to the lease payment need to be levied for that year.

Approved March 24, 1995

Filed March 27, 1995

CHAPTER 555**HOUSE BILL NO. 1197**

(Representatives Laughlin, Maragos, Glassheim)
(Senator Krebsbach)

EXCESS LEVY SPECIAL ELECTION DATE

AN ACT to amend and reenact section 57-17-02 of the North Dakota Century Code, relating to the date of a special election to authorize an excess levy of taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-17-02 of the North Dakota Century Code is amended and reenacted as follows:

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

Approved March 1, 1995
Filed March 2, 1995

CHAPTER 556**HOUSE BILL NO. 1346**

(Representatives Jacobs, Grumbo, Huether, Poolman)
(Senators Schobinger, Wanzek)

TAX SALE NOTICES

AN ACT to amend and reenact section 57-24-07 of the North Dakota Century Code, relating to notice by the county auditor of tax sales.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-24-07 of the North Dakota Century Code is amended and reenacted as follows:

57-24-07. County auditor to give notice of tax sale by publication. The county auditor shall give notice of the delinquent real estate tax sale by publishing in the official newspaper of the county a notice, over ~~his~~ the auditor's signature, published once each week for two successive weeks, the first publication to be made at least fourteen days prior to ~~such~~ the sale. Each notice must contain the information that all lands upon which taxes for the preceding year remain unpaid will be sold, and must state the time and place of sale. The notice may not contain the name of the owner of any lot or tract, nor the description thereof, but it must state that a list of all lands subject to ~~such~~ the sale is on file and may be examined at the office of the county auditor, and that a copy of ~~such~~ the list with names of the owners and descriptions of the lands or tracts involved, and the total amount of taxes, penalties, interest, and cost of advertising, has been posted in the office of the county auditor ~~and in four or more public places in the county, giving the name and location of such places of posting.~~

Approved March 27, 1995

Filed March 28, 1995

CHAPTER 557**SENATE BILL NO. 2527**

(Senators Krebsbach, Holmberg, Mutch)
(Representatives Christenson, Olson, Price)

MILITARY PERSONNEL VOTING AND RESIDENCY

AN ACT to amend and reenact subsection 6 of section 57-38-01 of the North Dakota Century Code, relating to voting and residency for income tax purposes of active duty members of the armed forces assigned to duty in this state; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 57-38-01 of the North Dakota Century Code is amended and reenacted as follows:

6. "Resident" applies only to natural persons and includes, for the purpose of determining liability for the tax imposed by this chapter upon or with reference to the income of any income year, any person domiciled in the state of North Dakota and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than seven months of the income year within the state. A full-time active duty member of the armed forces assigned to a military installation in this state, or the spouse of such a person, is not a "resident" of this state for purposes of this chapter simply by reason of having voted in an election in this state.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1994.

Approved March 27, 1995
Filed March 28, 1995

CHAPTER 558**HOUSE BILL NO. 1337**

(Representatives Svedjan, Stenehjem, Kaldor)
(Senators Solberg, Robinson, Urlacher)

**CORPORATE STOCK SALE GAIN FOR INCOME TAX
PURPOSES**

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to gains for individual income tax purposes derived from sale of stock of certain corporations that have relocated to this state; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Gain on stock sale or transfer when corporation has relocated to this state.

1. Gain from sale or other transfer of stock owned by a resident of this state in a corporation doing business in the primary sector which has relocated to this state is the difference between the per share price of the stock at the time of sale or transfer at any time the company qualifies under this section and the fair market value of the stock on the date of relocation. This section applies only to holders of record of the relocating company's securities on the date of relocation. This section does not apply to determination of loss from sale or transfer of stock.
2. The taxable income of an individual must be reduced by an amount equal to the gain computed for federal income tax purposes from the sale or other transfer of stock described in subsection 1 less the gain computed for state tax purposes under subsection 1 on the same stock.
3. For purposes of this section:
 - a. "Date of relocation" means the due date of the first return required to be filed by the corporation under subsection 2 of section 57-38-60.
 - b. "Fair market value" means the average trading price of the stock of the corporation. If the shares are not traded in sufficient numbers to establish an average trading price, fair market value may be established by appraisal by a qualified appraisal firm.
 - c. "Primary sector" means any business of which at least seventy percent of operating revenues represent new wealth in this state or which generates at least five million dollars in new wealth annually in this state.
 - d. "Relocated to this state" means having moved significant operations to this state.

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- e. "Significant operations" means primary sector operations generating annual revenues of at least five million dollars.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1994.

Approved April 4, 1995

Filed April 4, 1995

CHAPTER 559**HOUSE BILL NO. 1440**

(Representatives Sitz, Gulleson, Coats, Brown)
(Senators O'Connell, Solberg)

GAMING INCOME TAXATION

AN ACT to amend and reenact section 57-38-03, subsection 4 of section 57-38-04, and section 57-38-05 of the North Dakota Century Code, relating to the application of income taxes to gaming income; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-03 of the North Dakota Century Code is amended and reenacted as follows:

57-38-03. Imposition of tax against nonresidents. The tax imposed by this chapter must be levied, collected, and paid annually upon and with respect to income derived from all property owned, from all gaming activity carried on in this state, and from every business, trade, profession, or occupation carried on in this state by natural persons not residents of the state at the rates specified with respect to net income of resident of North Dakota.

SECTION 2. AMENDMENT. Subsection 4 of section 57-38-04 of the North Dakota Century Code is amended and reenacted as follows:

4. Income derived from carrying on a trade or business by ~~individuals~~ an individual must be assigned to this state without regard to the residence of the ~~recipients~~ individual if the trade or business is conducted wholly within this state. Income derived from gaming activity carried on in this state by an individual must be assigned to this state without regard to the residence of the individual.

SECTION 3. AMENDMENT. Section 57-38-05 of the North Dakota Century Code is amended and reenacted as follows:

57-38-05. Certain income of nonresidents not taxed. Unless the income, gains, or both, arise from transactions in the regular course of the taxpayer's trade or business carried on in this state, or unless the acquisition, management, and disposition of intangible personal property constitutes a trade or business carried on in this state, or unless the income, gains, or both, arise from gaming activity carried on in this state, income of nonresidents derived from land contracts, mortgages, stocks, bonds, or other intangible personal property, or from the sale of intangible personal property, may not be taxed.

SECTION 4. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1994.

Approved March 22, 1995
Filed March 23, 1995

CHAPTER 560**SENATE BILL NO. 2185**

(Finance and Taxation Committee)

(At the request of the Office of Management and Budget)

**CORPORATION CONSOLIDATED INCOME TAX
RETURNS**

AN ACT to create and enact a new subsection to section 57-38-14 of the North Dakota Century Code, relating to the filing of combined reports and consolidated income tax returns by domestic corporations; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-38-14 of the North Dakota Century Code is created and enacted as follows:

Notwithstanding any other provision of law, two or more North Dakota domestic corporations, affiliated as parent and subsidiary, and filing a federal consolidated tax return, shall file a combined report and consolidated return for income tax under this chapter.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1994.

Approved March 1, 1995

Filed March 1, 1995

CHAPTER 561

SENATE BILL NO. 2191

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

INCOME TAX TECHNICAL CHANGES

AN ACT to amend and reenact section 57-38-30.1, subsection 4 of section 57-38-40, and subsection 5 of section 57-38-62 of the North Dakota Century Code, relating to the corporate income tax credit for new industry, claims for refunds of individual income taxes attributable to a net operating loss, and definition of net tax liability for estimated tax payment purposes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-30.1 of the North Dakota Century Code is amended and reenacted as follows:

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

²⁷⁰ **SECTION 2. AMENDMENT.** Subsection 4 of section 57-38-40 of the North Dakota Century Code is amended and reenacted as follows:

4. A person other than a corporation may file a claim for credit or refund of an overpayment of tax resulting from the carryback of a ~~federal~~ net operating loss within three years after the prescribed due date for filing

²⁷⁰ Section 57-38-40 was also amended by section 1 of House Bill No. 1357; chapter 564, and section 1 of House Bill No. 1193, chapter 563.

the return, including extensions, for the tax year in which the loss was incurred. The provisions of this subsection are effective for loss years beginning after December 31, 1986.

²⁷¹ **SECTION 3. AMENDMENT.** Subsection 5 of section 57-38-62 of the North Dakota Century Code is amended and reenacted as follows:

5. For purposes of this section, "net tax liability" means the amount of income tax computed ~~under this chapter~~ for the ~~current~~ taxable year as shown on the return less the amount of any credits allowable except tax withheld and estimated tax paid.

SECTION 4. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1994.

Approved March 2, 1995
Filed March 3, 1995

²⁷¹ Section 57-38-62 was also amended by section 1 of Senate Bill No. 2189, chapter 567, and section 1 of House Bill No. 1136, chapter 568.

CHAPTER 562**SENATE BILL NO. 2184**

(Finance and Taxation Committee)

(At the request of the Office of Management and Budget)

COMPOSITE TAX RETURNS

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to composite tax returns; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident individual partner or shareholder on whose behalf the return is filed. The tax under this section must be computed by multiplying the North Dakota taxable income by the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1994.

Approved March 1, 1995

Filed March 1, 1995

CHAPTER 563**HOUSE BILL NO. 1193**

(Representatives Wald, Martin, Belter, Brown)
(Senators Goetz, Urlacher)

**INCOME TAX EXTENSIONS AFTER FEDERAL
CHANGES**

AN ACT to create and enact a new subsection and a new subdivision to subsection 7 of section 57-38-40 of the North Dakota Century Code, relating to extensions for filing amended state individual, estate, or trust income tax returns as a result of federal changes or corrections; to provide a retroactive effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁷² SECTION 1. A new subdivision to subsection 7 of section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

This subsection applies to any taxable year of an individual, estate, or trust for which changes or corrections have been made by the United States internal revenue service or other competent authority.

SECTION 2. A new subsection to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

Notwithstanding the limitations in subsection 7, an individual, estate, or trust is entitled to file an amended state income tax return or other information as required by the tax commissioner to claim a refund of an overpayment of state income tax attributable to changes or corrections made by the United States internal revenue service or other competent authority, if the taxpayer was barred under subsection 7 from claiming a refund before the effective date of this Act and the person files the amended return before July 1, 1996. Any interest otherwise allowed under this chapter does not accrue after the ninety-day period prescribed in section 57-38-34.4, if this subsection applies.

SECTION 3. **RETROACTIVITY - EFFECTIVE DATE - EXPIRATION DATE.** This Act is retroactively effective for any taxable year of a taxpayer for which changes or corrections have been made by the United States internal revenue service or other competent authority. Section 2 of this Act is effective through June 30, 1996, and is thereafter ineffective.

Approved March 10, 1995
Filed March 10, 1995

²⁷² Section 57-38-40 was also amended by section 1 of House Bill No. 1357, chapter 564, and section 2 of Senate Bill No. 2191, chapter 561.

CHAPTER 564**HOUSE BILL NO. 1357****(Representatives Sitz, Gunter)****TAX OVERPAYMENT REFUNDS**

AN ACT to create and enact a new subsection to section 57-38-40 of the North Dakota Century Code, relating to refunds of overpaid penalty and interest; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁷³ **SECTION 1.** A new subsection to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

If the tax commissioner determines there has been an overpayment of tax, any overpaid penalty and interest on that tax must be refunded or credited by the tax commissioner.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1994.

Approved March 6, 1995

Filed March 6, 1995

²⁷³ Section 57-38-40 was also amended by section 1 of House Bill No. 1193, chapter 563, and section 2 of Senate Bill No. 2191, chapter 561.

CHAPTER 565**HOUSE BILL NO. 1096**

(Finance and Taxation Committee)

(At the request of the Tax Commissioner)

INCOME AND WITHHOLDING TAX INFORMATION

AN ACT to create and enact a new subsection to section 57-38-57 of the North Dakota Century Code, relating to the tax commissioner's use of certain information for income and withholding tax compliance purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-38-57 of the North Dakota Century Code is created and enacted as follows:

Notwithstanding any other provision of law relating to confidentiality of information contained on returns, the tax commissioner may use information for income and withholding tax compliance purposes contained on any federal form W-2, federal form 1099, or a return filed under section 57-38-42.

Approved March 1, 1995

Filed March 2, 1995

CHAPTER 566**SENATE BILL NO. 2341**
(Senator Heinrich)**EMPLOYER WAGE WITHHOLDING**

AN ACT to amend and reenact subsection 1 of section 57-38-60 of the North Dakota Century Code, relating to the time for filing of state income taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 57-38-60 of the North Dakota Century Code is amended and reenacted as follows:

1. Every employer shall, on or before the last day of April, July, October, and January, pay over to the tax commissioner the amount required to be deducted and withheld from wages paid to all employees during the preceding calendar quarter under section 57-38-59; ~~provided, that the~~. If the amount required to be deducted and withheld from wages paid to all of an employer's employees during the previous calendar year was less than two hundred fifty dollars, the employer may file an annual return. The tax commissioner may alter the time or period for making reports and payment when in the tax commissioner's opinion, the tax is in jeopardy, or may prescribe the use of any other time or period as will facilitate the collection and payment of the tax by the employer.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1995.

Approved March 15, 1995
Filed March 15, 1995

CHAPTER 567**SENATE BILL NO. 2189**

(Finance and Taxation Committee)

(At the request of the Office of Management and Budget)

ESTIMATED TAX PAYMENT EXEMPTION

AN ACT to amend and reenact subsection 1 of section 57-38-62 of the North Dakota Century Code, relating to exemptions from estimated tax payment requirements; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁷⁴ SECTION 1. AMENDMENT. Subsection 1 of section 57-38-62 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual, estate, or trust that is subject to section 6654 of the Internal Revenue Code relating to a failure to pay federal estimated income tax shall, at the time prescribed in this chapter, pay estimated tax for the current taxable year. Notwithstanding any other provision of this section, an individual, estate, or trust whose net tax liability for the preceding taxable year was less than two hundred dollars is not required to pay estimated tax for the current taxable year. Married individuals who file a joint federal income tax return and are subject to section 6654 of the Internal Revenue Code must each be deemed to be subject to the federal provision. If payment of estimated tax is required, the individual, estate, or trust shall, at the time prescribed in this chapter, pay the lesser of the following:
 - a. An amount which, when added to the taxpayer's withholding, equals ninety percent of the taxpayer's current taxable year's net tax liability.
 - b. An amount which, when added to the taxpayer's withholding, equals one hundred percent of the taxpayer's net tax liability for the immediately preceding taxable year.
 - (1) This subdivision does not apply to any taxpayer who was not required by this chapter to file a return for the immediately preceding taxable year, to an individual who moved into this state during the immediately preceding taxable year, or to an estate or trust that was not in existence for the entire immediately preceding taxable year. The amount under this subdivision must be deemed to be equal to the amount in subdivision a ~~of this subsection~~ if this part applies.
 - (2) In order to satisfy the requirements of this subdivision, married individuals who are required to file separate state

²⁷⁴ Section 57-38-62 was also amended by section 3 of Senate Bill No. 2191, chapter 561, and section 1 of House Bill No. 1136, chapter 568.

returns for the current taxable year but who were required to file a joint state return for the immediately preceding taxable year must each be required to pay estimated tax in an amount which, when added to the individual's withholding, equals the net tax liability which would have been computed for the immediately preceding taxable year if separate state returns had been required to be filed.

- (3) In order to satisfy the requirements of this subdivision, married individuals who are required to file a joint state return for the current taxable year but were required to file separate state returns for the immediately preceding taxable year must be required to pay estimated tax in an amount which, when added to their withholding, equals the sum of their separate net tax liabilities for the immediately preceding taxable year.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1994.

Approved March 2, 1995
Filed March 3, 1995

CHAPTER 568**HOUSE BILL NO. 1136**

(Finance and Taxation Committee)

(At the request of the Office of Management and Budget)

INCOME TAX PENALTIES

AN ACT to amend and reenact subsection 3 of section 57-38-62 of the North Dakota Century Code, relating to penalties for the nonpayment, underpayment, or late payment of estimated tax; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁷⁵ **SECTION 1. AMENDMENT.** Subsection 3 of section 57-38-62 of the North Dakota Century Code is amended and reenacted as follows:

3. The provisions of section 57-38-45, except those provisions relating to the imposition of a penalty, apply in case of nonpayment, late payment, or underpayment of estimated tax. ~~For purposes of applying the penalty provisions of section 57-38-45, each of the due dates under section 57-38-63 are deemed to be a payment or return due date.~~ For purposes of applying the interest provisions of section 57-38-45, interest accrues on a per annum basis from the due date of an installment to the fifteenth day of the fourth month following the end of the current taxable year or, with respect to any portion of the estimated tax required to be paid, the date on which the portion thereof is paid, whichever date is earlier. Notwithstanding the other provisions of this section, no ~~penalty or~~ interest is due if the estimated tax paid on or before each due date under section 57-38-63 by a corporation is based on the annualized or adjusted seasonal method under section 6655 of the Internal Revenue Code. Notwithstanding the other provisions of this section, no ~~penalty or~~ interest is due if the estimated tax of an individual, estate, or trust is less than two hundred dollars per income tax return filed.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1994.

Approved March 21, 1995

Filed March 21, 1995

²⁷⁵ Section 57-38-62 was also amended by section 1 of Senate Bill No. 2189, chapter 567, and section 3 of Senate Bill No. 2191, chapter 561.

CHAPTER 569**SENATE BILL NO. 2153**

(Finance and Taxation Committee)

(At the request of the Bank of North Dakota)

**TAX REFUNDS TO OFFSET DELINQUENT STUDENT
LOANS**

AN ACT to amend and reenact section 57-38.3-02 of the North Dakota Century Code, relating to offsetting state income tax refunds to pay delinquent student loans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38.3-02 of the North Dakota Century Code is amended and reenacted as follows:

57-38.3-02. Definitions. As used in this chapter:

1. "Claimant agency" means the department of human services or the North Dakota guaranteed student loan program.
2. "Commissioner" means the North Dakota tax commissioner or ~~his~~ the commissioner's designee.
3. "Debt" means any liquidated sum due and owing, or required to be collected by, any claimant agency which has accrued through contract, subrogation, tort, or operation of law, regardless of whether there is an outstanding judgment for that sum.
4. "Debtor" means any individual owing money to or having a delinquent or defaulted account or loan with any claimant agency, which obligation has not been adjudicated satisfied by court order, set aside by court order, or discharged in bankruptcy, or otherwise canceled under the Higher Education Act of 1965 [Pub. L. 89-329; 79 Stat. 1219; 20 U.S.C. 1001 et seq.].
5. "Refund" means the North Dakota income tax refund which the commissioner determines to be due any individual taxpayer.

Approved March 1, 1995

Filed March 1, 1995

CHAPTER 570**SENATE BILL NO. 2268**

(Senator Bowman)

TIRE RETREADING SERVICE SALES TAX

AN ACT to amend and reenact subsection 7 of section 57-39.2-01 and subsection 8 of section 57-40.2-01 of the North Dakota Century Code, relating to application of sales and use taxes to tire retreading services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 57-39.2-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, and communication service to retail consumers or users; the sale of vulcanizing, recapping, and retreading services for tires; the furnishing of bingo cards; 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 must 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 in another state may not be considered a taxable sale if such delivery of possession would not be treated as a taxable sale in that state. As used in this subsection the word "consumer" includes 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 must 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. AMENDMENT. Subsection 8 of section 57-40.2-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Tangible personal property" means:
 - a. Tangible goods, including the furnishing of bingo cards, wares, and merchandise, and gas, when furnished or delivered to consumers or users within this state, and the sale of vulcanizing, recapping, and retreading services for tires.
 - b. The leasing or renting of tangible personal property, the sale, storage, use, or consumption of which has not been previously subjected to a retail sales or use tax in this state.
 - c. The purchase of magazines or other periodicals. Provided, the words "magazines and other periodicals" as used in this subdivision do not include newspapers nor magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.
 - d. The severance of sand or gravel from the soil.

Approved March 17, 1995
Filed March 20, 1995

CHAPTER 571

SENATE BILL NO. 2136
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

CARPET AND DRAPES SALES TAX

AN ACT to repeal section 57-39.2-03.4 of the North Dakota Century Code, relating to sales taxes on carpet and drapes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 57-39.2-03.4 of the North Dakota Century Code is repealed.

Approved April 13, 1995
Filed April 18, 1995

CHAPTER 572

SENATE BILL NO. 2077

(Legislative Council)

(Interim Natural Resources Committee)

(Senator Nalewaja)

(Representatives Carlisle, Hanson, Coats, Gulleson)

RECYCLING MACHINERY SALES TAX EXEMPTION

AN ACT to repeal section 2 of chapter 565 of the 1993 Session Laws, relating to the expiration date for the sales and use tax exemption for recycling machinery and equipment; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 2 of chapter 565 of the 1993 Session Laws is repealed.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 1, 1995

Filed March 2, 1995

CHAPTER 573**SENATE BILL NO. 2416**

(Senators Tennefos, Mutch)
(Representatives Belter, Gorman)

MOTOR VEHICLE SELLER'S CERTIFICATES

AN ACT to amend and reenact section 57-40.3-05.1 of the North Dakota Century Code, relating to a motor vehicle seller's certificate furnished by a seller to a purchaser; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-40.3-05.1 of the North Dakota Century Code is amended and reenacted as follows:

57-40.3-05.1. Seller to furnish motor vehicle seller's certificate to purchaser. Any person, except a licensed vehicle dealer, selling a motor vehicle ~~must, upon request of the department of transportation,~~ shall provide a motor vehicle seller's certificate or a completed bill of sale to the purchaser showing a complete description of the motor vehicle, the seller's name and address, the buyer's name and address, the full purchase price of the vehicle, and the trade-in allowance and description of the trade-in, if any. A copy of the motor vehicle seller's certificate or a completed bill of sale must be presented to the department of transportation at the time the motor vehicle is registered. If a seller's certificate is not provided at the time of registration, the motor vehicle excise tax may be determined through a used vehicle buying guide and must be based on average retail value. Every licensed vehicle dealer, at the time of sale of a motor vehicle, must complete that portion of a motor vehicle purchase certificate relating to the full purchase price of the vehicle and any allowance for a trade-in.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 1996.

Approved March 24, 1995
Filed March 27, 1995

CHAPTER 574**SENATE BILL NO. 2132**
(Finance and Taxation Committee)
(At the request of State Radio Communications)**TELEPHONE ACCESS LINE EXCISE TAX**

AN ACT to amend and reenact section 57-40.6-02 of the North Dakota Century Code, relating to imposition of a telephone access line excise tax by counties and cities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-40.6-02 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-02. Authority of counties or cities to impose excise tax on telephone access lines - Procedure. The governing body of a county or city may impose an excise tax on the use of telephone access lines in accordance with the following requirements:

1. The governing body shall adopt a resolution that proposes the adoption of the excise tax permitted under this section. The resolution must specify an effective date for the tax which is no more than two years before the expected implementation date of the emergency services communication system to be funded by the excise tax. The resolution must include a provision for submitting the proposed excise tax to the electors of the county or city before the imposition of the tax is effective. The resolution must specify a tax that does not exceed one dollar per month per telephone access line.
2. The question of the adoption of the excise tax must be submitted on a ballot on which the ballot title of the proposition includes the maximum monthly rate of the proposed tax authorized under subsection 1. The question of the adoption of the excise tax may be submitted to electors at a general, primary, or special election or at a school district election if the boundaries of the school district are coterminous with the boundaries of the governing body adopting the resolution proposing the adoption of the excise tax. The tax is not effective unless it is approved by a majority of the electors voting on the proposition. The ballot must be worded so that a "yes" vote authorizes imposition of the tax for an initial six-year period.
3. If the tax authorized by this section is approved by the electors, the tax may be reimposed for six additional years without resubmitting the question to the electors.
4. ~~If the equipment necessary to establish an emergency service communication system is not available from a telephone company serving the county or city and would prove to be economically infeasible to install based on the surcharge in this section, the county or city may not impose the excise tax.~~ In any geographic area, only one political subdivision may impose the excise tax.

5. In the interest of public safety, where the customers exchange boundary and the boundary of the political subdivision imposing the tax do not coincide, and where all of the political subdivisions within the exchange boundary have not complied with subsection 1, and where a majority of the E911 subscribers within the exchange boundary have voted for the tax, an exchange customer residing outside the political subdivision may receive E911 services by signing a contract agreement with the political subdivision providing the emergency telecommunications system. The telephone company may collect an additional tax, equal in amount to the basic tax on those subscribers within the exchange boundary. The additional tax amounts collected must be remitted as provided in this chapter.

Approved March 17, 1995
Filed March 20, 1995

CHAPTER 575**HOUSE BILL NO. 1094**

(Representative Dorso)

(At the request of the Department of Transportation)

FUELS TAX CONTINGENT INCREASE

AN ACT to create and enact a new section to chapter 57-43.1 and a new section to chapter 57-43.2 of the North Dakota Century Code, relating to additional motor vehicle fuels taxes and special fuels taxes to be imposed if additional federal highway matching funds become available; to repeal sections 1 and 2 of chapter 573 of the 1993 Session Laws, relating to additional motor vehicle and special fuels taxes; to provide an appropriation; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-43.1 of the North Dakota Century Code is created and enacted as follows:

Additional motor vehicle fuels taxes. An additional tax in the amount and upon the conditions provided in this section is imposed on all motor vehicle fuel sold or used in this state.

1. For purposes of this section:
 - a. "Additional federal highway matching funds" means amounts of federal highway matching funds available to this state during a fiscal year in excess of seventy-eight million dollars for which a letter of commitment is received from the federal highway administration.
 - b. "Letter of commitment" means an annual communication received from the federal highway administration irrevocably providing that additional federal highway matching funds are available to the state of North Dakota on a matching fund basis.
2. The tax imposed under this section applies from the first full month beginning at least ten days after the director of the department of transportation certifies to the tax commissioner that a letter or letters of commitment have been received obligating federal funds in the amounts provided in this subsection. The tax imposed by this section is as follows:
 - a. An additional tax of one cent per gallon [3.79 liters] if, during either the fiscal year beginning July 1, 1995, and ending June 30, 1996, or the fiscal year beginning July 1, 1996, and ending June 30, 1997, but not both, letters of commitment are received indicating the cumulative amount of additional federal highway matching funds available to the state is more than six million dollars.
 - b. In addition to the tax under subdivision a, an additional tax of one cent per gallon [3.79 liters] if, during either the fiscal year beginning July 1, 1995, and ending June 30, 1996, or the fiscal year

beginning July 1, 1996, and ending June 30, 1997, but not both, letters of commitment are received indicating the cumulative amount of additional federal highway matching funds available to the state is more than fifteen million five hundred thousand dollars.

- c. In addition to the taxes imposed by subdivisions a and b, an additional tax of one cent per gallon [3.79 liters] if, during either the fiscal year beginning July 1, 1995, and ending June 30, 1996, or the fiscal year beginning July 1, 1996, and ending June 30, 1997, but not both, letters of commitment are received indicating the cumulative amount of additional federal highway matching funds available to the state is more than twenty-four million dollars.

SECTION 2. A new section to chapter 57-43.2 of the North Dakota Century Code is created and enacted as follows:

Additional special fuel tax. An additional excise tax is imposed on the sale or delivery of any special fuel taxable under subsection 1 of section 57-43.2-02, in the amount and upon the conditions provided in this section.

1. For purposes of this section:
 - a. "Additional federal highway matching funds" means amounts of federal highway matching funds available to this state during a fiscal year in excess of seventy-eight million dollars for which a letter of commitment is received from the federal highway administration.
 - b. "Letter of commitment" means an annual communication received from the federal highway administration irrevocably providing that additional federal highway matching funds are available to the state of North Dakota on a matching fund basis.
2. The tax imposed under this section applies from the first full month beginning at least ten days after the director of the department of transportation certifies to the tax commissioner that a letter or letters of commitment have been received obligating federal funds in the amounts provided in this section. The tax imposed by this section is as follows:
 - a. An additional tax of one cent per gallon [3.79 liters] if, during either the fiscal year beginning July 1, 1995, and ending June 30, 1996, or the fiscal year beginning July 1, 1996, and ending June 30, 1997, but not both, letters of commitment are received indicating the cumulative amount of additional federal highway matching funds available to the state is more than six million dollars.
 - b. In addition to the tax under subdivision a, an additional tax of one cent per gallon [3.79 liters] if, during either the fiscal year beginning July 1, 1995, and ending June 30, 1996, or the fiscal year beginning July 1, 1996, and ending June 30, 1997, but not both, letters of commitment are received indicating the cumulative amount of additional federal highway matching funds available to the state is more than fifteen million five hundred thousand dollars.
 - c. In addition to the taxes imposed by subdivisions a and b, an additional tax of one cent per gallon [3.79 liters] if, during either the fiscal year beginning July 1, 1995, and ending June 30, 1996, or

the fiscal year beginning July 1, 1996, and ending June 30, 1997, but not both, letters of commitment are received indicating the cumulative amount of additional federal highway matching funds available to the state is more than twenty-four million dollars.

SECTION 3. REPEAL. Sections 1 and 2 of chapter 573 of the 1993 Session Laws are repealed.

SECTION 4. APPROPRIATION. There is hereby appropriated out of any moneys in the state highway tax distribution fund in the state treasury, the entire state's share of revenue from the additional tax imposed by sections 1 and 2 of this Act, but not exceeding \$22,500,000, or so much of the sum as may be necessary, plus up to \$43,000,000 of additional federal highway matching funds as defined in sections 1 and 2 of this Act, to the department of transportation for the purpose of providing funds needed to match additional federal highway matching funds and to authorize the expenditure of those funds and federal funds that may become available for highway purposes for the biennium beginning July 1, 1995, and ending June 30, 1997.

SECTION 5. EFFECTIVE DATE. Section 3 of this Act is effective on the day any additional tax under sections 1 and 2 of this Act becomes effective.

SECTION 6. EXPIRATION DATE. Sections 1 and 2 of this Act expire December 31, 1997, and after that date are ineffective.

Approved April 7, 1995
Filed April 7, 1995

CHAPTER 576

HOUSE BILL NO. 1134

(Finance and Taxation Committee)

(At the request of the Office of Management and Budget)

MOTOR VEHICLE FUEL TAX REFUNDS

AN ACT to provide limitations on production incentives for ethanol plants; to amend and reenact section 57-43.1-03.1 of the North Dakota Century Code and section 6 of chapter 404 of the 1991 Session Laws, relating to reductions of refunds of motor vehicle fuels taxes on fuel used for agricultural purposes and the duration of motor vehicle registration fees; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-43.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-03.1. Refund of tax for fuel used for agricultural purposes - Reduction for agricultural fuel tax fund. Any person who buys or uses any motor vehicle fuel for agricultural purposes, except motor vehicle fuel used in motor vehicles operated or intended to be operated in whole or in part upon any of the public highways of this state on which the motor vehicle fuel tax has been paid, must be reimbursed or repaid within the time provided in this chapter, the amount of the tax paid upon the presentation to and the approval of the commissioner of a claim for refund. The amount of the tax refund provided for in this section must be reduced by ~~two~~ four cents per gallon [3.79 liters] except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users, ~~and the two cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund, and two cents per gallon [3.79 liters] withheld from the refund must be retained in the highway tax distribution fund.~~ Those persons who have a valid tax assignment permit issued by the commissioner under section 57-43.1-11 must be charged ~~two~~ four cents per gallon [3.79 liters] by the dealer and the ~~two~~ four cents charged must be remitted to the commissioner by the dealer when the dealer submits the tax assigned invoices for credit.

SECTION 2. Duration and limitation of ethanol plant production incentives. Notwithstanding any other provision of law, an ethanol plant may not receive production incentives except as permitted under this section.

1. An ethanol plant that was in operation before July 1, 1995, may not receive production incentives in the form of direct payments from the state for more than five fiscal years of operation after June 30, 1995. An ethanol plant that begins operation after June 30, 1995, may not receive production incentives in the form of direct payments from the state for more than ten fiscal years of operation. After December 31, 2007, the state may not provide production incentives in the form of direct payments to any ethanol plant.
2. An ethanol plant that was in operation before July 1, 1995, and which produced fewer than fifteen million gallons [56781000 liters] of ethanol in the previous fiscal year may receive up to one million dollars in

production incentives from the state for production in a fiscal year. An ethanol plant that was in operation before July 1, 1995, and which produced fifteen million gallons [56781000 liters] or more of ethanol in the previous fiscal year and an ethanol plant that begins operation after June 30, 1995, are each eligible to receive an equal share in up to five hundred thousand dollars in production incentives from the state for production in a fiscal year.

SECTION 3. AMENDMENT. Section 6 of chapter 404 of the 1991 Session Laws is amended and reenacted as follows:

SECTION 6. EFFECTIVE DATE - EXPIRATION DATE. Section 1 of this Act is effective from July 1, 1991, through June 30, ~~1995~~ 2000, and is thereafter ineffective. Section 3 of this Act is effective for motor vehicle fuel taxes paid from January 1, 1991, through December 31, 1994, and is thereafter ineffective.

SECTION 4. EFFECTIVE DATE - EXPIRATION DATE. Section 1 of this Act is effective for motor vehicle fuel taxes paid from January 1, 1995, through December 31, 1999, and is thereafter ineffective. Section 3 of this Act becomes effective on July 1, 1995.

Approved April 7, 1995

Filed April 7, 1995

CHAPTER 577**HOUSE BILL NO. 1257**

(Representatives Torgerson, Rennerfeldt, Dobrinski)
(Senators Goetz, Kinnoin, Urlacher)

HORIZONTAL DRILLING TAX INCENTIVES

AN ACT to create and enact three new subsections to section 57-51.1-01 and two new subsections to section 57-51.1-03 of the North Dakota Century Code, relating to definitions and exemptions for purposes of the oil extraction tax; to amend and reenact subsection 8 of section 57-51.1-01 and subsection 3 of section 57-51.1-03 of the North Dakota Century Code, relating to stripper wells and oil extraction tax exemptions for certain inactive wells, horizontal reentry wells, and horizontal wells; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Three new subsections to section 57-51.1-01 of the North Dakota Century Code are created and enacted as follows:

"Horizontal well" means a well with a horizontal displacement of the wellbore drilled at an angle of at least eighty degrees within the productive formation of at least three hundred feet.

"Horizontal reentry well" means a well that was not initially drilled and completed as a horizontal well, including any well initially plugged and abandoned as a dry hole, which is reentered and recompleted as a horizontal well after March 31, 1995.

"Two-year inactive well" means any well that has not produced oil in more than one month in the two years before the date of application to the industrial commission for certification as a two-year inactive well.

SECTION 2. AMENDMENT. Subsection 8 of section 57-51.1-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Stripper well property" means a "property" whose average daily production of oil, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet or less, fifteen barrels per day for wells of a depth of more than six thousand feet but not more than ten thousand feet, and ~~twenty~~ thirty barrels per day for wells of a depth of more than ten thousand feet during any preceding consecutive twelve-month period beginning after December 31, 1972. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.

²⁷⁶ SECTION 3. Two new subsections to section 57-51.1-03 of the North Dakota Century Code are created and enacted as follows:

The production of oil from a two-year inactive well, as determined by the industrial commission and certified to the state tax commissioner, for a period of ten years after the date of receipt of the certification. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil for any consecutive five-month period in any year is thirty-three dollars or more. However, the exemption is reinstated if, after the aforementioned trigger provision becomes effective, the average price of a barrel of crude oil is less than thirty-three dollars for any consecutive five-month period in any year.

The production of oil from a horizontal reentry well, as determined by the industrial commission and certified to the state tax commissioner, for a period of nine months after the date the well is completed as a horizontal well. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil for any consecutive five-month period in any year is thirty-three dollars or more. However, the exemption is reinstated if, after the aforementioned trigger provision becomes effective, the average price of a barrel of crude oil is less than thirty-three dollars for any consecutive five-month period in any year.

SECTION 4. AMENDMENT. Subsection 3 of section 57-51.1-03 of the North Dakota Century Code is amended and reenacted as follows:

3. For a well drilled and completed after April 27, 1987, the initial production of oil from the well is exempt from any taxes imposed under this chapter for a period of fifteen months, except that oil produced from any well drilled and completed as a horizontal well after March 31, 1995, is exempt from any taxes imposed under this chapter for a period of twenty-four months. Oil recovered during testing prior to well completion is exempt from the oil extraction tax. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil for any consecutive five-month period in any year is thirty-three dollars or more. However, the exemption is reinstated if, after the aforementioned trigger provision becomes effective, the average price of a barrel of crude oil is less than thirty-three dollars for any consecutive five-month period in any year.

SECTION 5. EFFECTIVE DATE. Sections 1, 3, and 4 of this Act are effective for taxable events occurring after March 31, 1995, and section 2 of this Act is effective for taxable events occurring after June 30, 1995.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 3, 1995
Filed April 3, 1995

²⁷⁶ Section 57-51.1-03 was also amended by section 1 of Senate Bill No. 2150, chapter 579.

CHAPTER 578**HOUSE BILL NO. 1095**

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

OIL EXTRACTION TAX RATES

AN ACT to amend and reenact section 57-51.1-02 of the North Dakota Century Code, relating to reduced oil extraction tax rates for certain oil production.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-51.1-02 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-02. Imposition of oil extraction tax. There is hereby imposed an excise tax, to be known as the "oil extraction tax", upon the activity in this state of extracting oil from the earth, and every owner, including any royalty owner, of any part of the oil extracted ~~shall be~~ is deemed for the purposes of this chapter to be engaged in the activity of extracting that oil.

The rate of tax ~~shall be~~ is six and one-half percent of the gross value at the well of the oil extracted, except that ~~for the rate of tax is~~ four percent of the gross value at the well of the oil extracted in the following situations:

1. For oil produced from wells drilled and completed after April 27, 1987, commonly referred to as new wells, and not otherwise exempt under section 57-51.1-03; ~~for~~;
2. For oil produced from a secondary or tertiary recovery project that was certified as qualifying by the industrial commission before July 1, 1991; ~~for~~;
3. For oil that does not qualify as incremental oil but is produced from a secondary or tertiary recovery project that is certified as qualifying by the industrial commission after June 30, 1991; ~~for~~;
4. For incremental oil produced from a secondary or tertiary recovery project that is certified as qualifying by the industrial commission after June 30, 1991, and which production is not otherwise exempt under section 57-51.1-03; ~~or for~~
5. For oil produced from a well that receives an exemption pursuant to subsection 4 of section 57-51.1-03 after June 30, 1993, and which production is not otherwise exempt under section 57-51.1-03; ~~the rate of tax shall be four percent of the gross value at the well of the oil extracted.~~

However, if the average price of a barrel of crude oil for any consecutive five-month period in any year is thirty-three dollars or more, then the rate of tax for the following months on all taxable wells is six and one-half percent of the gross value at the well of the oil extracted.

However, if after the aforementioned trigger provision becomes effective, the average price of a barrel of crude oil is less than thirty-three dollars for any consecutive five-month period in any year, the rate of tax reverts to four percent of the gross value at the well of the oil extracted for any wells drilled and completed after April 27, 1987, and not otherwise exempt under section 57-51.1-03, and for a qualifying secondary recovery project or for a qualifying tertiary recovery project.

Approved March 1, 1995

Filed March 1, 1995

CHAPTER 579**SENATE BILL NO. 2150**

(Finance and Taxation Committee)

(At the request of the Industrial Commission)

OIL EXTRACTION TAX EXEMPTIONS

AN ACT to amend and reenact subdivision a of subsection 5 of section 57-51.1-03 of the North Dakota Century Code, relating to oil exempt from the oil extraction tax; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁷⁷ **SECTION 1. AMENDMENT.** Subdivision a of subsection 5 of section 57-51.1-03 of the North Dakota Century Code is amended and reenacted as follows:

- a. The incremental production from a secondary recovery project which has been certified as a qualified project by the industrial commission ~~during the period beginning~~ after July 1, 1991, ~~and ending June 30, 1995~~; is exempt from any taxes imposed under this chapter for a period of five years from the date the incremental production begins.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 21, 1995

Filed March 23, 1995

²⁷⁷ Section 57-51.1-03 was also amended by sections 3 and 4 of House Bill No. 1257, chapter 577.

CHAPTER 580**SENATE BILL NO. 2411**

(Senator O'Connell)

OIL EXTRACTION TAX EXEMPTION FILING

AN ACT to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to the filing of certifications to qualify for certain oil extraction tax exemptions and tax rate reductions; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Stripper well, new well, work-over, and secondary or tertiary project certification for tax exemption or rate reduction - Filing requirement. To receive the benefits of a tax exemption or tax rate reduction, a certification of qualifying well status prepared by the industrial commission must be submitted to the tax commissioner as follows:

1. To receive, from the first day of eligibility, a tax exemption on production from a stripper well property under subsection 2 of section 57-51.1-03, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the end of the stripper well property's qualification period.
2. To receive, from the first day of eligibility, a tax exemption under subsection 3 of section 57-51.1-03 and a rate reduction on production from a new well under section 57-51.1-02, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after a new well is completed.
3. To receive, from the first day of eligibility, a tax exemption under subsection 4 of section 57-51.1-03 and a rate reduction for a work-over well under section 57-51.1-02, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the work-over project is completed.
4. To receive, from the first day of eligibility, a tax exemption under subsection 5 of section 57-51.1-03 and a tax rate reduction under section 57-51.1-02 on production from a secondary or tertiary project, the industrial commission's certification must be submitted to the tax commissioner within the following time periods:
 - a. For a tax exemption, within eighteen months after the month in which the first incremental oil was produced.
 - b. For a tax rate reduction, within eighteen months after the end of the period qualifying the project for the rate reduction.

5. To receive, from the first day of eligibility, a tax exemption or the reduction on production for which any other tax exemption or rate reduction may apply, the industrial commission's certification must be submitted to the tax commissioner within eighteen months of the completion, recompletion, or other qualifying date.

If the industrial commission's certification is not submitted to the tax commissioner within the eighteen-month period provided in this section, then the exemption or rate reduction does not apply for the production periods in which the certification is not on file with the tax commissioner. When the industrial commission's certification is submitted to the tax commissioner after the eighteen-month period, the tax exemption or rate reduction applies to prospective production periods only and the exemption or rate reduction is effective the first day of the month in which the certification is received by the tax commissioner.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 1996.

Approved March 15, 1995
Filed March 15, 1995

CHAPTER 581**SENATE BILL NO. 2330**

(Senator Yockim)
(Representative Tollefson)

OIL EXTRACTION TAX REVENUE ALLOCATION

AN ACT to amend and reenact section 57-51.1-07 of the North Dakota Century Code, relating to allocation of oil extraction tax revenues; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁷⁸ **SECTION 1. AMENDMENT.** Section 57-51.1-07 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-07. Allocation of moneys in oil extraction tax development fund. Moneys deposited in the oil extraction tax development fund must be apportioned quarterly by the state treasurer as follows:

1. Ten percent must be allocated and credited to the sinking fund established for payment of the state of North Dakota water development bonds, southwest pipeline series, and any moneys in excess of the sum necessary to maintain the accounts within the sinking fund and for the payment of principal and interest on the bonds, must be credited to a special trust fund, to be known as the resources trust fund. The resources trust fund must be established in the state treasury and the funds therein must be deposited and invested as are other state funds to earn the maximum amount permitted by law which income must be deposited in the resources trust fund. The principal and income of the resources trust fund may be expended only pursuant to legislative appropriation and are available to:
 - a. The state water commission for planning for and construction of water-related projects, including rural water systems. These water-related projects must be those which the state water commission has the authority to undertake and construct pursuant to chapter 61-02; and
 - b. The industrial commission for the funding of programs for development of energy conservation and renewable energy sources; for studies for development of cogeneration systems that increase the capacity of a system to produce more than one kind of energy from the same fuel; for studies for development of waste products utilization; and for the making of grants and loans in connection therewith.

²⁷⁸ Section 57-51.1-07 was also amended by section 8 of Senate Bill No. 2025; chapter 47.

2. Twenty percent must be allocated as provided in article X, section 24, of the constitution of North Dakota.
3. Ninety Seventy percent must be allocated and credited to the state's general fund for general state purposes.

SECTION 2. EFFECTIVE DATE. This Act is effective for tax revenue from oil produced after June 30, 1995.

Approved March 17, 1995

Filed March 20, 1995

CHAPTER 582**HOUSE BILL NO. 1377**

(Representatives Gorman, Berg, Payne, Wardner)

MOBILE HOME TAX PERMITS

AN ACT to amend and reenact section 57-55-01.1 of the North Dakota Century Code, relating to tax permits for mobile homes; to repeal section 57-55-02 of the North Dakota Century Code, relating to applications and mobile home taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-55-01.1 of the North Dakota Century Code is amended and reenacted as follows:

57-55-01.1. Taxation ~~of~~ and tax permits for mobile homes. The owner of each mobile home is subject to taxes as determined under this chapter and shall file an application for a mobile home tax permit with the director of tax equalization in the county in which the mobile home is located ~~on or before January tenth of each year or~~ within ten days after the mobile home is ~~purchased~~ acquired, moved, or first ~~moved~~ brought into this state. Application must be made on forms approved by the tax commissioner and furnished by the county director of tax equalization and must contain the necessary information to carry out the provisions of this chapter. A mobile home tax permit may not be issued unless the owner pays the tax and any penalties in full to the county treasurer. Upon payment of the tax ~~to the county treasurer,~~ a mobile home tax permit must be issued to the owner of the mobile home. The tax permit is valid throughout the state for the mobile home during the period for which it was issued.

SECTION 2. REPEAL. Section 57-55-02 of the North Dakota Century Code is repealed.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable events occurring after July 31, 1995.

Approved March 21, 1995

Filed March 21, 1995

CHAPTER 583**HOUSE BILL NO. 1480**
(Representatives Mahoney, Maragos)
(Senator Traynor)**MOBILE HOME TAX DISCOUNT PERIOD**

AN ACT to amend and reenact section 57-55-03 of the North Dakota Century Code, relating to the time during which a discount is allowed for payment of taxes on mobile homes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-55-03 of the North Dakota Century Code is amended and reenacted as follows:

57-55-03. When taxes become due and delinquent - Penalty.

1. a. The tax imposed in this chapter is due and payable on January tenth of each year or ten days after the mobile home is purchased or first moved into this state. If the tax due for the entire year is paid in full by February fifteenth, the county treasurer shall allow a five percent discount.
 - b. ~~If a mobile home is purchased or moved into this state after January tenth and~~ if the tax imposed by this chapter is paid in full within ~~ten~~ thirty days after the mobile home is purchased or moved into this state, the county treasurer shall allow a five percent discount. However, if the tax is not paid within forty days it is subject to a penalty and interest. The penalty is one percent of the tax. The interest is one-half percent of the tax for each full and fractional month of delay.
2. Except as provided in subdivision b of subsection 1, the tax imposed by this chapter may be paid in two equal installments if the amount of the tax due is forty dollars or more. The first installment is due on January tenth and becomes delinquent on March first and is then subject to a penalty of two percent, and on April first an additional penalty of two percent, and on May first an additional penalty of two percent, and on June first an additional penalty of two percent. The second installment is due June first and is delinquent on July first and is then subject to a penalty of two percent, and on August first an additional penalty of two percent, and on September first an additional penalty of two percent, and on October first an additional penalty of two percent. If any tax remains due after January first of the next year, interest is due at the monthly rate of one-half percent of the tax due for each month or fraction of a month until the tax and penalties have been paid in full.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 1995.

Approved March 1, 1995
Filed March 2, 1995

CHAPTER 584

HOUSE BILL NO. 1101

(Representative Timm)

(At the request of the Governor)

MULTISTATE TAX COMMISSION MEMBERSHIP

AN ACT to amend and reenact sections 57-59-03, 57-59-04, 57-59-05, and 57-59-06 of the North Dakota Century Code, relating to the membership and activities of the multistate tax commission; and to repeal section 57-59-07 of the North Dakota Century Code, relating to the multistate tax compact advisory committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-59-03 of the North Dakota Century Code is amended and reenacted as follows:

~~57-59-03. Membership of multistate tax commission. The governor shall appoint the member of the multistate tax commission to represent the state of North Dakota from among the persons made eligible by subdivision a of subsection 1 of article VI of the compact; or the head of the state tax department commissioner shall represent the state of North Dakota on the multistate tax commission.~~

SECTION 2. AMENDMENT. Section 57-59-04 of the North Dakota Century Code is amended and reenacted as follows:

~~57-59-04. Designation of an alternate. The member representing the state of North Dakota on the multistate tax commission state tax commissioner may be represented thereon on the multistate tax commission by an alternate designated by him the state tax commissioner. Any such alternate must be a principal deputy or assistant of the member of the commission in the agency which the member heads state tax commissioner.~~

SECTION 3. AMENDMENT. Section 57-59-05 of the North Dakota Century Code is amended and reenacted as follows:

~~57-59-05. Legal counsel. The chief counsel of the legal and research division of the state tax department or his the chief counsel's designee; shall attend the meetings of the multistate tax commission as the legal counsel representing the state of North Dakota as provided for by subdivision a of subsection 1 of article VI of section 57-59-01.~~

SECTION 4. AMENDMENT. Section 57-59-06 of the North Dakota Century Code is amended and reenacted as follows:

~~57-59-06. Selection of representatives to meet with commission member. The governor, after consultation with representatives of local governments, shall appoint three persons who are representatives of subdivisions affected or likely to be affected by the multistate tax compact; or the governor state tax commissioner shall appoint three two persons who are representatives of subdivisions affected or likely to be affected by the multistate tax compact; from among persons nominated by the county commissioners' association of counties; county auditors' association; and~~

league of ~~municipalities~~ cities. ~~The member of the commission representing the state of North Dakota, state tax commissioner, and any alternate designated by him the state tax commissioner, shall consult regularly with these appointees, in accordance with subdivision b of subsection 1 of article VI of section 57-59-01. The state tax commissioner shall also consult regularly with the chairman and ranking minority party member of the finance and taxation committees of the senate and house of representatives as provided for in subdivision b of subsection 2 of article VI of section 57-59-01.~~

SECTION 5. REPEAL. Section 57-59-07 of the North Dakota Century Code is repealed.

Approved March 1, 1995

Filed March 1, 1995