

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

Approved March 14, 1939.

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## TAXATION

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### CHAPTER 225

S. B. No. 41—(Thorson, Nelson of Grand Forks, Wog, Morrison and Drew.)

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#### ABATEMENT EXCESSIVE ASSESSMENTS

An act declaring all tax charges based on original final values of property assessed by local assessors, in excess of amount that would have been charged had said original final value been limited to the full and true value in money, null and void providing remedy to the taxpayer; and repealing all laws or parts of laws in conflict therewith.

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

§ 1. TAXES BASED ON VALUATIONS IN EXCESS OF FULL AND TRUE VALUE VOID.] Any and all taxes levied and assessed against taxable property valued by local assessors, to the extent that said tax charges exceed the amount that said tax charge would have been had the original final determination of value been limited to the full and true value thereof in money, shall be null and void.

§ 2. WHO MAY OBJECT. CONSIDERATION OF APPLICATION.] Each individual property owner, and each person having an interest in taxable property valued by local assessors, either individually, or jointly, or collectively, including taxing districts as such, may within one year after any assessment becomes final, bring such proceedings as are herein provided for, or as may be provided for by law, to determine and limit the tax obligations of such property as provided for in Section one hereof, and each such proceedings shall be by the board, commission, commissioners, or any person having jurisdiction thereof, and the courts, decided, determined, and the valid tax determined as to the application thereof to the specific property or properties involved in said proceeding or proceedings and without reference to county necessities, or other municipal requirements, and without reference to the valuation applied or tax obligations charged against other properties.

§ 3. APPLICATION FOR RELIEF FROM EXCESSIVE VALUATION.]

Any person or persons referred to in Section two hereof aggrieved by the acts of any assessor, township board of review and equalization, board of county commissioners sitting as a board of equalization, board of county commissioners sitting as such, the county auditor, or any other officer having jurisdiction over valuation for the purpose of taxation of taxable property valued by local assessors may petition the board of county commissioners to make its order fixing the basic full and true value, in money, of any such property, or properties as may be described or referred to in the petition and to correct or modify any other act or thing done, committed or permitted in connection with the taxation thereof and to re-determine any tax charges against any such property to conform to the amount that would ultimately result from a reduction of the valuation thereof to the full and true then value thereof. Such petition shall contain such representations in connection with said property, and with reference to the original and basic full and true value thereof in money, as the petitioner or petitioners may be advised, and in addition to allegations of value as value may be now by law determined, said petitioner or petitioners may allege and prove, by affidavit or otherwise, the full and true value of said property, in money, by reference to the average cash rental value thereof, and such allegations and proof may be considered along with other evidence in determining the full and true value in money. The board of county commissioners shall have jurisdiction to and it shall be their duty to hear and determine said petition, and to make a finding of the then full and true value of said property in money. If said petition requires the determination of the tax charges it shall be the duty of the board of county commissioners to determine the amount of said tax by the application of and applying thereto the consolidated levy applied in said taxing district, for each year in the petition referred to. Upon the receipt by the county treasurer of the amount of tax so determined as to any parcel of land or personal property, the county treasurer shall issue a tax receipt for each year for which payment is thus made and in its order the board of county commissioners shall provide that upon payment of the amount thus fixed and determined for each year upon payment of the amount thus fixed for any year the balance of the tax charges for that year against such property shall be abated.

§ 4. FAILURE TO APPEAR AT BOARD OF EQUALIZATION DOES NOT CAUSE LOSS OF REMEDY.] The failure to appear before any board of equalization or the failure on the part of any person interested in any such property to do or perform any other act or thing shall not preclude such owner or person interested in said real estate from having the full merit of his individual petition heard and determined.

§ 5. APPEAL TO DISTRICT COURT.] In the event that the petitioner or petitioners are dissatisfied with decision of the board of

county commissioners, said petitioner or petitioners may, at any time within thirty days, after notice of the decision of the board of county commissioners, appeal to the district court of the county in which said property may be situated, in the manner now provided by law for appeals from decisions of the board of county commissioners. Upon appeal the district court shall try the issues de novo, and shall hear the testimony that may be offered by the petitioner or petitioners and the board of county commissioners touching upon the then true and full value, in money, of said property, including all methods of determining value referred to in Section 3 hereof. And the district court shall have full right, authority and jurisdiction and it shall be the duty of such court to fix and determine the proper and legal tax charges for any year or years as may be involved in said petition, from which appeal was taken by the application of the procedure as set out in said Section three hereof.

§ 6. APPEAL TO SUPREME COURT.] Appeals from any judgment of the district court shall be taken to the Supreme Court in the manner now provided by law, and the Supreme Court shall have jurisdiction to hear and try the issues de novo in the Supreme Court upon the records presented in the district court, and make such orders in the premises as shall carry out the spirit and purpose of the act.

§ 7. CONSTRUCTION.] This act shall not be construed to repeal or in anywise impair or amend the provisions, force, intent or effect of Section 2122a of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, as amended and re-enacted by the initiated measure approved June 29, 1932 and set out on page 493 of the Session Laws of 1933, and the matter of application of valuation in this act set out contemplates the application of said initiated measure for the purpose of determining taxable value.

§ 8. REPEAL.] That all laws or parts of laws in conflict herewith are hereby repealed.

Approved March 15, 1939.

## CHAPTER 226

H. B. No. 216—(Myers &amp; Jensen)

PERMITTING COURT ACTION TO DETERMINE  
A FAIR TAX ON PROPERTY

An act permitting actions to be brought against the State involving levy and assessment of property made by the State Board of Equalization, or involving the refund of taxes levied thereunder, giving jurisdiction thereof to the District Court of Burleigh County, with right of Appeal to the Supreme Court, prescribing procedure to be followed; repealing all acts or parts of acts in conflict herewith; and declaring an emergency.

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

§ 1. WHEN AND WHERE ACTION MAY BE BROUGHT.] Any person, firm or corporation, whose property is now being, or has been valued and assessed for taxation purposes by the State Board of Equalization under the Constitution or the statutes of this State, or against whom any tax be levied or assessed by said board, feeling aggrieved for any reason with the assessment or levy so made may bring an action for relief, at law or in equity, against the State and any or all of its subdivisions therein interested, in the District Court of Burleigh County, North Dakota, and without the necessity of bringing a separate action against each of said subdivisions; provided any such action is brought on or before the date on which the taxes to be collected under the levy and assessment involved become due; and provided, further, that no action shall be brought against the State under this act for refund of taxes already paid unless said taxes, sought to be refunded, were paid under protest in writing before delinquency thereof.

§ 2. PROCEDURE.] The District Court of Burleigh County, North Dakota, is hereby given jurisdiction over any and all actions hereinbefore provided, whether such actions are brought against the State only or against the State and one or more of its subdivisions jointly. At any time after such action is brought, either before or during trial, the District Court of Burleigh County may allow the plaintiff to pay to the State or municipalities interested any part of the taxes involved in the action under such agreement as may be made between the plaintiff or plaintiffs and the attorney general in behalf of all defendants, or under such terms as the court may fix, and such agreement when ratified by the court shall be binding upon all parties to the action. At the time the action is brought, the plaintiff shall be required to file with the clerk of the District Court of Burleigh County a bond, running to the State of North Dakota, in such form as may be fixed by said District Court of Burleigh County, and in an amount sufficient to cover all anticipated costs of the action, said bond to be approved as to

amount and form by the clerk of said court. The decision of the district court in such action shall be subject to appeal to the Supreme Court in the manner now provided by statute for appeal in civil actions. Providing, that the provisions of Section 2241c of the 1925 Supplement to the Compiled Laws of the State of North Dakota for the year 1913 shall not apply to actions brought under the provisions of this act.

§ 3. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 4. EMERGENCY.] An emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1939.

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## CHAPTER 227

H. B. No. 194—(Jensen and Page)

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### CONTRACT SETTLEMENTS OF DELINQUENT TAXES

An act to amend and re-enact Chapter 240 of the Session Laws of North Dakota for 1937, providing for an adjustment of delinquent taxes for 1937 and prior years, authorizing boards of county commissioners to make extension contracts for the payment of delinquent taxes and for the cancellation of such contracts, providing for the suspension of tax collection and tax deed laws as to taxes affected by such contracts, repealing all acts and parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. That Section 1, Chapter 240 of the Session Laws of North Dakota for 1937 be amended and re-enacted to read as follows:

§ 1. (1) All delinquent real and personal property taxes, except as hereinafter provided, for the year 1937 and prior years, together with accrued interest and penalties thereon, shall be cancelled and discharged in full upon the payment of the full amount of the original tax; provided that all payments hereunder must be made on or before March 1, 1940; and, provided, further, that such taxes shall remain payable separately according to years, and any person, or corporation, having an interest in, or lien, or mortgage upon any property affected by this act shall be entitled to take advantage of the provisions hereof. This act shall not apply to any real estate taxes, the tax certificates for which have been sold or assigned to any purchaser other than the county, nor to special

assessments levied for local improvements, nor special assessments levied by drainage or irrigation districts.

(2) The auditors and treasurers of each county shall accept in full payment and discharge of all such delinquent real estate taxes, including interest and penalty thereon, payments made in accordance with the provisions of this act, and the sheriff of each county shall accept in full payment of all delinquent personal property taxes, including interest and penalties, payments made hereunder.

(3) The board of county commissioners may, upon application of any person owning property upon which taxes, either real or personal, are delinquent for the year 1937, or prior years, permit the payment of any such delinquent taxes, except special assessments levied for local improvements and special assessments levied by drainage or irrigation districts, on the reduced amounts hereinbefore provided for, in not to exceed ten (10) annual installments, without interest, at the rate of 4% per annum from April 1st, 1939, payable on or before October 15th of each year, provided that ten per cent (10%) of the principal is paid when the extension is allowed, ten per cent (10%), on the following October 15th, and ten per cent (10%) on each succeeding year until the amount is fully paid; and upon the payment in full of such installments, with accrued interest, such delinquent taxes shall be cancelled and discharged of record.

§ 2. That Section 2 of Chapter 240, of the Session Laws of North Dakota for 1937 be and the same is hereby amended and re-enacted as follows:

§ 2. The board of county commissioners shall require the owner of the property upon which there is delinquent taxes and who applies for an extension hereunder, to enter into a contract with the county wherein the owner agrees to pay the full amount of the balance of the principal of such delinquent taxes; provided that no owner shall be entitled to enter into such an extension contract unless he shall have first paid any delinquent taxes for the year 1938, and subsequent years; and, provided, further that such owner shall stipulate in his contract that if he fails to pay taxes subsequently to become due against the property described in said contract on or before the date of delinquency, his contract may be cancelled.

§ 3. That Section 3 of Chapter 240 of the Session Laws of North Dakota for 1937 be and the same is hereby amended and re-enacted, as follows:

§ 3. Upon the execution and delivery of an extension contract as herein provided, all proceedings for the collection of delinquent taxes, including any tax deed proceedings, which may be pending, shall be suspended and shall remain suspended while such

contract is in force; provided, that upon the failure of the owner, or his successor in interest, to pay one or more installments due upon such contract, or upon the failure to pay any installments of taxes for the year 1938, or any subsequent years, prior to the date of delinquency, the board of county commissioners shall have the power, in its discretion, to declare such contract cancelled, and thereupon the proper officers shall proceed to enforce the collection, in the manner provided by law, of the full amount of the unpaid delinquent taxes, with penalty and interest, as though no extension contract had been made.

§ 4. That Section 4 of Chapter 240 of the Session Laws of North Dakota, for 1937 be amended and re-enacted to read as follows:

§ 4. Any owner who has entered into an extension contract under the provisions of Chapter 240 of the Session Laws of North Dakota for 1937 and which contract is in force when this act goes into effect, shall be entitled to take advantage of the provisions of this act upon complying with all of the provisions hereof. Any owner who has entered into an extension contract, or his successor in interest, or any lien or mortgage holder, shall have the right to pay the full amount remaining unpaid upon such extension contract, at any time while such contract is in force.

§ 5. It is hereby declared to be the object and purpose of this act to provide for the payment of the delinquent taxes herein specified upon the reduced basis herein provided in order to permit taxpayers to place themselves upon a current tax-paying basis but it is also declared to be the future fixed policy of this State that no further reductions in the payment of taxes shall be given, and that no further extension of the period of redemption from tax sales or suspension of the issuance of tax deeds shall be granted.

§ 6. All acts and parts of acts in conflict herewith are hereby repealed, except that such parts of Chapter 240 of the Session Laws of North Dakota for 1937 as may be necessary for the enforcement of any contracts made pursuant thereto, shall remain in force.

§ 7. An emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1939.

## CHAPTER 228

H. B. No. 351—(Brown and Morland)

## INCOME TAX ACT AMENDMENT

An act to amend and re-enact Section 2346a18 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, as amended by Section 4, Chapter 283 of the Session Laws of 1931, as amended by Section 2, Chapter 241, Session Laws of 1937, to repeal Section 4 of Chapter 241 Session Laws of 1937; and declaring an emergency.

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

§ 1. AMENDMENT.] Section 2346a18 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 as amended by Section 4 of Chapter 283 of the Session Laws of 1931 as amended by Section 2 of Chapter 241, Session Laws of 1937, is hereby amended and re-enacted to read as follows:

§ 2346a18. DEDUCTIONS ALLOWED.] In computing net income, there shall be allowed as deductions:

(1) All the ordinary and necessary expenses paid during the income year in the carrying on of any trade or business including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession, for the purpose of the trade or business, of property to which the tax-payer has not taken or is not taking title, or in which he has no equity.

(2) Interest paid or accrued within the year on tax-payer's indebtedness.

(3) Taxes paid or accrued within the income year upon property or business, but not including those assessed against local benefits of a kind tending to increase the value of the property assessed. Federal income taxes may be deducted to the extent such taxes represent a tax paid on income taxable under this act, but state income taxes are not deductible.

(4) (1) No losses shall be deducted from the fixed income of the taxpayer derived from salaries, wages, or taxable dividends, but losses actually sustained in the carrying on of any trade or business, sustained within the year and not compensated by insurance or otherwise, may be deducted, provided further that no loss may be allowed in the sale of property purchased and held for pleasure or recreation and which was not acquired or used for profit, but this proviso shall not be construed to exclude losses due to theft or the destruction of property by fire, flood, or other casualty, or a loss sustained in any sale of the residence of the taxpayer. In the case of a taxpayer other than a resident of the State, losses shall be allowed only as to transactions in real property or in tan-

gible personal property having an actual situs in this State, and losses in connection with any business, trade, profession or occupation carried on in this State, provided, however that the aggregate amount which may be deducted in connection with losses incurred in connection with sale or exchange of capital assets shall not exceed the aggregate gains reported from the sale or exchange of capital assets in any year.

(2) Losses sustained from the operation or conducting of any farming or agricultural pursuit sustained within the year and not compensated for by insurance; providing, however, that the person claiming such deduction must have been the legal owner of the land on which the loss accrued for at least one year prior to claiming the deduction. Provided, however, that no deduction for loss sustained from any farming or agricultural pursuit as provided in this section shall exceed the sum of five hundred dollars.

(5) Debts ascertained to be worthless and charged off within the income year. In the case of a debt existing on January first, nineteen hundred and nineteen, no more than its fair market value on that date shall be deducted. A worthless debt arising January first, nineteen hundred and nineteen, from unpaid wages, salary, rent or any other similar item of taxable income, is not an allowable deduction unless the income which such item represents has been included as income by the taxpayer in a return rendered under this act.

(6) A reasonable allowance for necessary repairs and a reasonable allowance for depreciation by use, wear and tear of property used in business or trade, and in case of mines, oil and gas wells or other natural deposits, a reasonable allowance for depletion of ores and other natural deposits on the basis of their actual original cost in cash or in the equivalent of cash, and including cost of development, and in case of property acquired prior to January 1, 1919, the fair market value on that date shall be taken in lieu of cost up to that date.

(7) Dividends or income received by any person from stock or interest in any corporation, the income of which has been assessed and paid by a corporation under this act, received by the taxpayer and included in the gross income within the income year; provided that when only part of the income of any corporation shall have been assessed and income tax paid under this act, only a corresponding part of the dividends or income received therefrom shall be deducted; and providing further that such corporation has reported the name and address of each person owning stock and the amount of dividends or income paid each such person during the year.

(8) Contributions or gifts made within the income year to (a) the State of North Dakota, or any political subdivision thereof, exclusively for public purposes, or (b) to any community chest,

corporation, association or trust, or fund, or foundation, organized and operated exclusive for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual; or (c) to posts or organization, of war veterans or auxiliary units or societies of such organizations, if such posts, organizations, units or societies are within North Dakota and if no part of their net income inures [inures] to the benefit of any private shareholder or individual; provided, that such contributions or gifts may be deducted only to an amount which in all the above cases combined does not exceed fifteen percent (15%) of the taxpayer's net income as computed without the benefit of this subdivision.

§ 2. REPEAL.] Section 4 of Chapter 241, Session Laws of 1937, is hereby repealed.

§ 3. EMERGENCY.] This act is declared to be an emergency measure, and it shall be in full force and effect upon its passage and approval.

Approved March 16, 1939.

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## CHAPTER 229

S. B. No. 212—(Morrison, Owings, and Dahl)

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### LISTING PROPERTY FOR TAXATION PURPOSES

An act amending and re-enacting Section 2093 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, relating to the manner of listing real and personal property for assessment purposes, and providing that as to general merchandise, or any inventory of goods and wares, the average value of the same for the year preceding the time of the assessment, shall be taken as the value thereof for assessment purposes, repealing all acts in conflict therewith and declaring an emergency.

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

§ 1. AMENDMENT.] Section 2093 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 2093. Listing of real and personal property for taxation purposes making special provisions for the assessment of stock of goods, wares, and merchandise. All real property subject to taxation shall be listed and assessed every odd numbered year with reference to its value on April first of that year and shall not be re-assessed in the following year, except by order of the board

of county commissioners or Tax Commissioner. Property assessed in odd numbered years shall be taxed upon the assessed valuation as equalized by the State Board of Equalization in such year and in the following year except as herein otherwise provided. All real property becoming taxable in any intervening year shall be listed and assessed with reference to its value on April first in that year. Personal property shall be listed and assessed annually with reference to its value upon April first of each year. The value of a stock of merchandise whether owned by an individual, co-partnership, association or corporation, for the purpose of assessment for taxation shall be taken to be the monthly average of the inventory on the first day of each month of the year preceding the date of the assessment. Such monthly average shall be determined as follows: an actual inventory taken on or about the first day of any month shall be taken to be the inventory so taken; the inventory for the succeeding month shall be determined by adding to such actual inventory the wholesale cost price of all merchandise purchased during such succeeding month, and subtracting therefrom the wholesale cost price of the merchandise sold during such month except such taxpayers that now have a monthly perpetual inventory system. The inventory for any succeeding month shall be determined likewise by adding to the inventory of the preceding month the wholesale cost price of all merchandise purchased during such succeeding month and deducting the wholesale cost price of all merchandise sold during such month. The average inventory for the tax year shall be determined by adding the inventories so determined as above for each of the twelve months preceding the first day of April for the assessment year, and dividing the total of such twelve inventories by twelve. The dividend thus obtained shall be the average monthly inventory for the assessment year and shall be the assessment value of such stock of merchandise for the purpose of assessment for the assessment year. It shall be necessary for each place of business to keep a copy of all inventories to be available at all times for the assessor and other taxing authorities. In every even numbered year at the time of assessing personal property, the assessor shall also assess all real property that may have become subject to taxation since the last previous assessment, and all buildings or other structure of any kind, whether completed or in process of completion, or improvements on any structures of over one hundred dollars (\$100.00) in value, the value of which has not been previously added to or included in the valuation of the land or lots on which they have been erected, excepting farm buildings now exempt from taxation. Whenever after the first day of April and before the first day of June in any year, it is made to appear to the assessor by the oath of the owner or owners, that any buildings, structure or other improvement or tangible personal property, which is listed for taxation for the current year has been destroyed or in-

jured by fire, flood or tornado, he shall investigate the matter and deduct from the valuation of the property of the owner of such destroyed property, an amount which in his judgment, fairly represents such deduction as should be made; no deduction shall be made on account of damages covered by insurance, or damages amounting to less than one hundred dollars (\$100.00). In case of an abatement by the board of county commissioners and Tax Commissioner of the valuation of any parcel of real estate as assessed in an odd numbered year pursuant to Chapter 227, Session Laws of 1917 (amending Section 2165, 3646; post) or acts amendatory thereof, the valuation as abated shall be the assessed valuation in the even numbered year next following, except as otherwise herein provided.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

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

Approved March 3, 1939.

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## CHAPTER 230

S. B. No. 104—(Magoffin)

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### DEDUCTION DELINQUENT PERSONAL PROPERTY TAXES FROM OFFICIAL SALARIES, ETC.

An act to amend and re-enact Chapter 274 of the Session Laws of North Dakota for the year 1935 as amended by Chapter 243 of the Session Laws of North Dakota for 1937 relating to the deduction of delinquent personal property taxes from salaries or other compensation of elective and appointive officers, agents and employees of the State of North Dakota, all bureaus, boards, commissions and departments and all persons receiving public funds, extending the application thereof to persons receiving, claiming or demanding money from municipalities and political sub-divisions within the State and providing that entering into of installment contracts for payment of personal property taxes shall not relieve anyone from the operation of this act, repealing all acts or parts of acts in conflict herewith and declaring an emergency.

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

§ 1. That Chapter 274 of the Session Laws of North Dakota for the year 1935 is hereby amended and re-enacted to read as follows:

§ 2. DEDUCTIONS TO PAY DELINQUENT PERSONAL PROPERTY TAXES.] That from and after the passage and approval of this

act it shall be the duty of all persons who are required to issue warrants for or pay any of the salaries or other compensation of the officer and employees herein named, to ascertain from the tax records of the county or counties wherein the services were performed and/or the county wherein the person making claim for such compensation resides, whether the person making such claim for such payment is indebted to any school district, municipal corporation, county or state for personal property taxes delinquent, and, if such indebtedness is found to exist, to deduct fifteen per centum (15%) of the amount claimed for such salary or other compensation each month until such personal property taxes, with interest and penalty are fully discharged.

§ 3. WHO SUBJECT TO THE PROVISIONS OF THIS ACT.] This act shall apply to all elective and appointive officials and/or their deputies, all courts, bureaus, boards, commissions, departments, and committees, all agents, clerks, inspectors, employees and contractors and in fact each and every person, firm, corporation or co-partnership receiving, claiming or demanding any money from the State of North Dakota, or any of its various departments, bureaus, boards, or commissions whether especially named herein or not; or from any county, township, or other political subdivision of the State of North Dakota; or from any city, village, school district, park district, or municipality in the State of North Dakota. It is intended hereby to insure the payment of personal property taxes by all persons, firms or corporation receiving public funds from the State of North Dakota or any of its political subdivisions, or municipalities within the State, or from any of the bureaus, boards, departments or commissions of the State and for which there is now no provision made for deducting such personal property taxes from the amount due to the persons, firms or corporations making claim upon public funds, provided, however that in any case where the item or items amount to less than ten dollars (\$10.00), one dollar (\$1.00) shall be deducted.

§ 4. It is further provided that the entering into of a contract by any person, firm, corporation or co-partnership subject to the provisions of this act, for the purpose of paying taxes on a contract or installment basis under the terms of Chapter 240 of the Session Laws of North Dakota for 1939 or any contract of any kind for the compromise or payment of delinquent personal property taxes, shall not relieve such person, firm, corporation or co-partnership from the operation of this act and the deduction of fifteen per centum (15%) shall be made in all such cases.

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

Approved March 14, 1939.

**CHAPTER 231**  
**S. B. No. 193—(Olson)**

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**AUTHORIZING DECREE OF DISTRIBUTION WITHOUT  
PAYMENT OF REAL ESTATE TAXES**

An act permitting the county court to make decrees of distribution and close estates without the payment of real estate taxes levied upon real property of the estate.

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

§ 1. The county court is hereafter permitted to make decrees of distribution and close estates without the payment of real estate taxes levied upon real property of the estate.

Approved March 14, 1939.

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**CHAPTER 232**  
**S. B. No. 276—(Committee on Delayed Bills)**

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**PRIORITY OF LIENS AND ASSIGNMENTS**

An act to amend and re-enact Section 6 of Chapter 244 of the Session Laws of 1937 relating to liens and assignments acquired in proceedings for the collection of rents to be applied on real estate taxes; providing for priority of liens acquired by the United States Government or any agency thereof and repealing all acts in conflict herewith; declaring an emergency.

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

§ 1. AMENDMENT.] That Section 6 of Chapter 244 of the Session Laws of 1937 be amended and re-enacted to read as follows:

§ 6. PRIORITY OF LIENS AND ASSIGNMENTS.] The payments of the rent provided for in the order of the court shall have precedence over and be paid prior to any subsequent assignment of such rents or lien upon such rents and no part of such rent shall be exempt from the payments required herein; provided however, that the payments of the rent provided for in the order of the court shall be subject and inferior to any lien which the Government of the United States or any agency thereof may acquire as security for the payment of any seed, feed or crop production loans.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] This act is hereby declared to be an emer-

gency measure and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1939.

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## CHAPTER 233

S. B. No. 49—(Tax and Tax Laws)

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### REBATE REAL ESTATE TAXES

An act to amend and re-enact Chapter 245 of the Session Laws of 1937.  
An act to encourage and promote the payment of taxes by providing for a rebate on pre-payments; declaring an emergency.

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

§ 1. That Chapter 245 of the Session Laws of 1937 be amended and re-enacted to read as follows:

There shall be an allowance of five (5) per cent rebate to all payers of taxes on real property who shall pay the same in one payment and in full on or before the fifteenth (15th) day of February next prior to the date of delinquency. Such rebate shall apply to all general taxes including State, county, city, township, village and school taxes but shall not apply to special assessments or to hail indemnity taxes.

§ 2. This act is new legislation. It is supplementary to existing laws and is not intended to change or affect existing legislation relating to penalties imposed for failure to pay taxes before delinquency.

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

Approved February 20, 1939.

## CHAPTER 234

S. B. No. 76—(Committee on Taxes and Tax Laws)

## SALES TAX ACT

An act to amend and re-enact Section 2 and Section 25 of Chapter 249 of the Session Laws of North Dakota for 1937, relating to the levying and imposing of a retail sales tax and the disposition of the funds collected therefrom.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 249 of the Session Laws of North Dakota for 1937 be, and the same is hereby amended and re-enacted to read as follows:

§ 2. TAX IMPOSED.] There is hereby imposed, beginning the first day of July, 1939, and ending June 30th, 1941, a tax of two per cent (2%) upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this act, sold at retail in the State of North Dakota to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of steam, gas, electricity, water and communication service, including the gross receipts from such sales by any municipal corporation furnishing steam, gas, electricity, water and communication service to the public in its proprietary capacity, except as otherwise provided in this act, when sold at retail in the State of North Dakota to consumers or users; and a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement and athletic events, except as otherwise provided in this act.

The tax herein levied shall be computed and collected as hereinafter provided.

§ 2. AMENDMENT.] That Section 25 of Chapter 249 of the Session Laws of North Dakota for 1937 be and the same is hereby amended and re-enacted to read as follows:

§ 25. ALLOCATION OF REVENUES.] All monies collected and received under this act shall be paid into the State Treasury and shall be credited by the State Treasurer into a special fund to be known as "The Retail Sales Tax Fund." Out of this fund the State Treasurer shall first provide for the payment of refunds allowed under this act. The net amount of monies remaining in said "Retail Sales Tax Fund" shall be covered in and transferred to the General Fund of the State of North Dakota.

Approved March 14, 1939.

## CHAPTER 235

H. B. No. 64—(Committee on Tax and Tax Laws)

## TAX DEED PROCEEDINGS

An act to amend and re-enact Sections 1, 2, 3, 4, 5, 6, 7, and 8 of Chapter 266 of the Session Laws of 1927 as amended by Chapter 288 of the Session Laws of 1931, the same being an amendment of Section 2202 of the Supplement to the Compiled Laws of 1913, relating to giving notice of expiration of period of redemption on property forfeited to the county at tax sale, issuance of tax deeds to county and sale by county of property acquired by tax deed; declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2202 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 266 of the Session Laws of 1927 as amended by Chapter 288 of the Session Laws of 1931, be amended and re-enacted to read as follows:

§ 22-2. NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION UPON LANDS FORFEITED TO THE COUNTY AT TAX SALES. ISSUANCE OF TAX DEED TO COUNTY. SALE OF PROPERTY ACQUIRED BY THE COUNTY THROUGH TAX DEED.] All pieces or parcels of real property bid in for the county under the provisions of this chapter and not redeemed or assigned within three (3) years from the date of the certificate of sale or subsequent tax sale certificate, shall upon the giving of the required notice of expiration of period of redemption become the absolute property in fee of the county and the county auditor shall issue a tax deed therefor to the county in the same manner as to individual purchasers.

(2) Upon issuance of tax deed to the county, such county acquires title to the property included in the tax deed free from all incumbrances. Upon obtaining tax deed to any real estate, the board of county commissioners shall, by general resolution, provide for the cancellation of all general taxes and all special assessment taxes of record which are then due or delinquent except such as were included in the notice of expiration of period of redemption. The assessment made on any real estate acquired by the county through tax deed in the year in which the county takes title, shall be abated and cancelled. So long as the county retains title to any real estate acquired by tax deed, such real estate shall be exempt from all general property taxes and all special assessment taxes.

After the county has disposed of any such real estate acquired through tax deed, such property shall cease to be tax exempt and shall be subject to all general taxes and to all installments of special assessment taxes coming due after such date. After notice of expiration of period of redemption is given, a redemption of real estate taxes may be made at any time up to October first following the

date of the notice of expiration of the period of redemption on any one or more parcels of real estate described in said notice; provided, the redemptioner shall pay the cost of service of the notice of expiration of period of redemption.

(3) NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION AND MANNER OF SERVICE.] It shall be the duty of the county auditor on or before the first day of June of each year to give notice of the expiration of the period of redemption as to all tracts of real estate on which the period of redemption will expire on October 1st following. Such notice shall be given:

First: to the record title owner.

Second: To the person in possession thereof.

Third: Such notice shall also be given to mortgagees, lien holders and other persons interested therein as may appear from the records of the register of deeds and clerk of the district court of said county.

Notice of expiration of period of redemption shall be served by registered mail as hereinafter specified and in the manner prescribed. Such notice may contain any number of parcels of real estate which stand in the name of the same record title owner, shall contain the information indicated in the following form and may be substantially in the following form:

#### NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION

To-----, the record title owner of the real estate hereinafter described, and to all mortgagees, lien holders, or other persons interested in said real estate, and to the person in possession thereof:

I, ----- County Auditor of----- County, North Dakota, hereby give notice that the real estate hereinafter described was at the tax sale held in this county on the----- day of-----19-----, offered for sale for delinquent taxes against it and was sold to said county, and that redemption has not been made therefrom and that the same is still the property of such county, and unless redemption is made from such tax sale on or before the first day of October after the date of this notice appearing above my signature, tax deed will be issued to the county granting to it and vesting in it absolute title in fee to said property and foreclosing all rights of redemption, and any and all other rights of the owner and of all mortgagees and lien holders and other persons interested therein as may appear from the records of the register of deeds and clerk of the district court of said county. There is given herewith the description of such parcels of real estate, and set opposite each description is the amount which will be required upon the date of the expiration of the period of redemption to redeem such real estate from such tax sale exclusive of the cost of serving this notice upon the owner and the person in possession

thereof. (Description of real estate and amounts required for redemption to be inserted.)

Given under my hand and the seal of the county auditor of \_\_\_\_\_ County, North Dakota, this \_\_\_\_\_ day of \_\_\_\_\_, 19-----.

County Auditor of \_\_\_\_\_  
County, North Dakota.

(a) SERVICE UPON MORTGAGEES AND OTHER LIEN HOLDERS.

Notice shall be sent by registered mail to the owner and to the occupant or tenant in possession, if any, and also to each mortgagee, lien holder or other person interested therein as may appear from the records of the office of register of deeds and clerk of the district court. It shall be the duty of the register of deeds and clerk of the district court within ten days after request by the county auditor to furnish him with a certified list giving the names, and so far as they appear on the records in the office of the register of deeds and clerk of the district court, the addresses of all persons who appear to be interested as owners, mortgagees, lien holders or otherwise in such real estate which has been sold to the county for taxes as may be specified by the county auditor in making such request.

Such service by registered mail shall be made by the county auditor and the expense of such service shall be added to the amount required to redeem and be paid by the person making the redemption in addition to the amount stated in the notice.

(4) NOTICE, BY PUBLICATION, WHEN MADE.] The county auditor shall also on or before August first of each year give notice of the expiration of the period of redemption by publication as to all tracts of real estate on which the period of redemption will expire on the following October first.

(5) NOTICE BY PUBLICATION, FORM AND MANNER OF PUBLICATION.] The county auditor shall prepare under his hand and official seal a notice containing the information indicated in the following form and which may be in substantially the following form:

NOTICE OF EXPIRATION OF THE PERIOD OF REDEMPTION ON LAND  
SOLD TO THE COUNTY AT TAX SALE.

I, \_\_\_\_\_ County Auditor of \_\_\_\_\_ County, North Dakota, do hereby give notice that the parcels of real estate hereinafter described were sold for taxes at the annual tax sale of this county on December \_\_\_\_\_, 19\_\_\_, and that at said sale said parcels of real estate were sold to this county, and that such sales have not been redeemed from and they are still the property of this county, and that unless redemption shall be made from such tax sale on or before October first from and after the date of such notice, the same will become the absolute property in fee of this county and the former owners thereof and all lien holders and other persons interested therein will be forever foreclosed and debarred

of any and all rights of redemption or other rights in or to such real estate. Following is a list of the real estate sold at such tax sale on which the period of redemption has expired. Opposite each description of real estate appears the name of the record title owner thereof as it appears by the records in the office of register of deeds of such county and also opposite each tract appears the amount which will be required to redeem from the effects of such tax sale at the expiration of the period of redemption, including the amount for which the said land was sold, interest and penalty thereon, subsequent delinquent taxes prior to those of the year 19---, and penalties and interest thereon.

(Here insert description of real estate, names of owners and amounts due.)

Given under my hand and the seal of the county auditor  
-----County, This-----day of-----  
19-----

County Auditor of -----  
County, North Dakota.

Such notice shall be published once in the official paper of the county in which such real estate is situated, the date of such publication to be not later than August first prior to the expiration of the period of redemption. The amounts stated in such notice shall include a charge of fifty cents for each parcel of real estate described therein to reimburse the county in part for the expense of such publication and for the mailing of such notice hereinbefore provided for. There may be included in a single published notice any number of parcels of real estate. The caption of said notice shall be in bold face type, but only one heading shall be necessary for the entire list.

§ 2. AMENDMENT.] That Subdivision 6 of Section 1, of Chapter 266, of the 1927 Session Laws of the State of North Dakota, as amended by Chapter 288 of the Session Laws of 1931 be amended and re-enacted to read as follows:

(6) SALE OF PROPERTY ACQUIRED BY COUNTY THROUGH TAX DEED.] Property so acquired by tax deed shall, under the direction of the board of county commissioners be sold at public or private sale, notice of which shall be given by posting at the front door of the court house thirty (30) days prior to the sale, a description of the parcels to be sold and if the assessed value of such property exceeds \$100.00 by publishing a notice of such sale in the official newspaper of the county, giving a description of the parcels to be sold, such notice to be published once not less than ten (10) days prior to the date of the sale. The description of all parcels of real estate to be sold at such sale shall be included in a single notice.

Before publishing such notice the board of county commissioners shall appraise each lot or parcel of land and fix a tentative minimum sales price thereon. Such minimum sales price shall be sufficient to cover all general taxes, special assessments, penalties, in-

terest and costs which were charged against the property and which were delinquent at the time notice of the expiration of period of redemption was issued plus cost of service of such notice; provided if the fair cash value of the property is less than the aggregate of such general taxes, special assessments, penalties, interest and costs the board shall fix a fair and equitable minimum sales price. The board shall thereupon set a date for hearing objections to the minimum sales price thus determined and the county auditor shall, at least ten (10) days previous to such hearing, mail to the auditor of any city, or the clerk of any village, or of any township board where such lots or tracts of land are located, a notice in writing that at the time and place mentioned therein objections to the minimum price fixed by the board, and specified in such notice, will be heard. At such hearing any member of the governing body of any such city, village or township or any representative thereof, shall be heard with reference to the fair value of such lot or parcel of land, and the board shall thereupon make such modifications and changes in the sales price of such property as it shall deem to be fair and just. The governing body of any such city, village or township may, if dissatisfied with the action of the board, appeal therefrom within ten (10) days after such hearing and determination to the district court and the perfecting of such appeal shall conform to the procedure prescribed by Sections 3298 and 3299 of the Compiled Laws of 1913, or acts amendatory thereof, except that no bond shall be required to perfect such appeal. All such determinations of value which in the opinion of any governing body are too low shall be combined in one appeal and shall be heard de novo by the court without a jury.

The board of county commissioners may fix the minimum sales price at an amount sufficient to cover all general taxes, special assessment taxes, penalties, interest and costs which were a charge against the property and which were delinquent at the time notice of expiration of period of redemption was issued plus cost of service of said notice; provided, such amount shall not exceed the fair cash value of the property. The foregoing provision is intended to cover those cases where general taxes were struck off to the county and special assessment taxes were struck off to the city and were not included in the tax forfeiture proceedings of the county.

None of the foregoing provisions is intended to limit the minimum price which the board of county commissioners is required to fix, at less than their determination of the fair cash value of the tax title which the county is empowered to give.

Such sale shall take place at the county seat on the third Tuesday of November in each year and shall continue from day to day until completed.

Each parcel shall be sold to the highest bidder therefor but not for a sum less than the minimum sales price finally fixed by the board of county commissioners unless the governing body of the

city, village or township where such property is located, by resolution, consents to an amount less than such minimum price.

Such sale may be either for cash or for one - fourth of the purchase price in cash and the balance in equal annual payments not to exceed a period of ten years; provided, however, that any purchaser may at any time within said ten year period pay any or all unpaid installments.

If the sale is for part cash, the purchaser shall forthwith pay the amount of the first installment of the bid to the county treasurer.

Whereupon the purchaser shall be given a contract for deed, setting forth the terms of the said sale executed in the name of the county by the chairman of the board of county commissioners and the county auditor.

Such contract shall be in the usual form and shall give the county the right, upon failure to comply with all the terms and conditions of the said contract by the purchaser, to cancel the said contract in manner and form now provided for by law between private individuals. Upon the execution and delivery of the said contract the real estate described therein shall be placed upon the assessment roll and be subject to assessment and taxation the same as though a deed had been issued therefor.

Such unpaid balance of purchase price shall draw interest at the rate of five per cent per annum upon all unpaid balances. Upon the payment of the balance due upon the said contract the county shall execute and deliver to the purchaser a deed conveying all right, title and interest, in and to such property.

If the sale is for cash the purchaser shall forthwith pay the amount so bid, to the county treasurer.

Upon complying with such requirements, the purchaser shall be given a deed executed in the name of the county by the chairman of the board of county commissioners and the county auditor, conveying all rights, title and interest in and to such property acquired by the county through the tax proceedings, which deed may be substantially in the following form:

#### TAX DEED

This indenture, made this \_\_\_\_\_ day of \_\_\_\_\_  
19\_\_\_, between the County of \_\_\_\_\_ North Dakota,  
party of the first part, acting by and through the chairman of its  
board of county commissioners and its county auditor, and \_\_\_\_\_  
\_\_\_\_\_ party of the second part, witnesseth:

That, Whereas, the real property hereinafter described did revert to and become the property of said county on account of the nonpayment of taxes assessed and levied against the same for the years \_\_\_\_\_ and \_\_\_\_\_, and the said taxes, interest and penalties aggregating in the sum of \_\_\_\_\_ Dollars, and

Whereas, in conformity with law the said property was duly offered for sale pursuant to law on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and at said sale said second party became the purchaser of the whole thereof for the sum of \_\_\_\_\_ Dollars,

Now, therefore, the said county as party of the first part in consideration of the premises and in pursuance of the statutes in such case made and provided, does hereby grant, bargain, sell and convey to the said second party, his heirs and assigns, that certain real property situated in the said County of \_\_\_\_\_ North Dakota, more particularly described as follows, to-wit:

To have and to hold, said mentioned tract\_\_or parcel\_\_of land, with the appurtenances thereunto belonging to the said party of the second part\_\_heirs, and assigns, forever, in as full and ample manner as the said county is empowered by law to sell the same.

In Witness Whereof \_\_\_\_\_ and \_\_\_\_\_ as chairman of the board of county commissioners and auditor respectively of the said county, do hereby set their hands the day and year first above written, and do cause the seal of said county to be affixed hereto.

\_\_\_\_\_ County  
 North Dakota.  
 By \_\_\_\_\_  
 Chairman of the Board of County  
 Commissioners.  
 \_\_\_\_\_  
 County Auditor

State of North Dakota }  
 County of \_\_\_\_\_ } ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally appeared before me, a Notary Public within the aforesaid county and State, \_\_\_\_\_ and \_\_\_\_\_ to me personally known to be the chairman of the board of county commissioners and the auditor, respectively, of the said county and each acknowledged to me that he executed the foregoing deed on behalf of the said county.

\_\_\_\_\_  
 Notary Public for \_\_\_\_\_ County, N. D.  
 My Commission expires \_\_\_\_\_

Whenever in any action at law or in equity, the validity of any such tax deed is questioned, upon the pleadings or otherwise, such action shall not proceed until the party assailing such deed shall within such time as the court shall deem reasonable deposit in court for the benefit of the party claiming thereunder, an amount equal to the sum paid by said party to the county for the purchase of the property covered by the tax deed together with costs and disburse-

ments of the action then incurred by the party claiming under such deed.

§ 3. AMENDMENT.] That Subdivision 7 and 8 of Chapter 266 of the Session Laws of 1927 be amended and re-enacted to read as follows:

(7) The proceeds of such sale shall be paid into the county treasury, and the amount due the State or any city, township, incorporated village, school district or other taxing district, from the taxes for which the same was sold, or a just proportion thereof which may be determined by the levy for the years' taxes for which the certificate was issued, be apportioned and placed to the credit of the State, city, township, incorporated village, school district, or other taxing district entitled thereto. After general property taxes and hail insurance taxes, including penalty and interest thereon have been satisfied, the balance or a sufficient portion thereof to satisfy special assessments shall be placed to the credit of the proper taxing district. If the balance is insufficient to satisfy all installments of special assessment taxes delinquent at time of issuance of notice of expiration of period of redemption, there shall be apportioned to each such fund such proportion of the balance as such item is of the total of all such delinquent installments of special assessments. If there is any remainder it shall go into the general fund of the county.

(8) In case no bids are received on any parcel of real property or in case all bids are rejected and such property is retained by the county, the county shall not be liable to any city or subdivision for any special assessment taxes levied on such property. Any parcels of real estate not disposed of at the November sale hereinbefore provided for may be sold at any subsequent time by the county auditor provided that no such sale shall be made at a price less than the minimum sales price theretofore fixed by the board of county commissioners prior to the November sale. Any parcels of real estate not disposed of at the November sale or not disposed of subsequently thereto, shall be revalued and shall again be offered for sale at the regular November sale in the following year.

§ 4. Provided, however, that this act shall not affect proceedings commenced under existing laws, except that the time for the expiration of the period of redemption and the time fixed in this act for sale, by the county, of land acquired by it under tax deed proceedings, shall be applicable to such pending proceedings.

§ 5. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 6. This act is hereby declared an emergency measure, and shall be in full force and effect from its passage and approval.

Approved February 7, 1939.

**CHAPTER 236**

S. B. No. 27—(Kamrath)

**TAX DEEDS—EXTENSION PERIOD OF REDEMPTION**

An act providing that in proceedings taken under the provisions of Chapter 266 of the Session Laws of 1927, no tax deed shall be issued prior to October 1, 1939 and the period of redemption from any tax sale made under the provisions of said chapter is hereby extended to October 1, 1939 and declaring an emergency.

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

§ 1. In proceedings taken under the provisions of Chapter 266 of the Session Laws of 1927, no tax deed shall be issued prior to October 1, 1939, and the period of redemption from any tax sale made under the provisions of said chapter is hereby extended to October 1, 1939.

§ 2. SAVING CLAUSE.] Providing, however, that this act shall not prohibit appraisals or sales of any of the property heretofore acquired under the provisions of the foregoing acts to which the county has acquired title at or before the time of taking effect hereof.

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

Approved January 28, 1939.

**CHAPTER 237**

H. B. No. 99—(Committee on Taxes and Tax Laws)

**LEASE PROVISIONS COUNTY TAX DEED PROPERTY**

An act to authorize county commissioners to lease real property acquired by tax deed and not sold or leased; to limit term of lease; to permit longer leases to cooperative grazing associations, soil conservation districts, and individuals; to limit expense of supervising and collecting rentals; to provide that net revenue be distributed to taxing districts; to repeal any acts in conflict; and to declare an emergency.

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

§ 1. The county commissioners of the respective counties of this State, for and in behalf of their respective counties, shall have the right, power and authority to lease and demise any and all pieces or parcels of real property now acquired or which may here-

after be acquired by their respective counties by tax deed except lands leased for oil and gas purposes, and for which sale cannot be had as provided by law, as, in the judgment of the said boards of county commissioners, shall seem best suited to advance the public benefit and welfare.

§ 2. All leases of such lands shall be made subject to sale and shall be limited in duration to a term of not to exceed five years; provided, however, that, in the discretion and sound judgment of said county commissioners, any piece or parcel of grazing land may be leased for grazing purposes without being subject to sale and for a term of not to exceed ten years to any duly incorporated cooperative grazing association or to any duly incorporated soil conservation district, or to any individual within this State.

§ 3. Said county commissioners shall not expend more than ten percent of the total revenue collected from all such leases to defray any and all costs in connection with the supervision and collection of the rentals.

§ 4. All of the net revenue derived from said leases including all Federal payments made in connection therewith, in an amount not less than ninety percent of the total revenue collected, shall be paid into the county treasury of the respective counties. On or before the 10th day of January in each year, the county treasurer of each county in this State shall apportion and distribute all such net revenue, so paid into the county treasury, to the State, county, city, village, school district, township or other taxing districts, in proportion that the amount due each such taxing district, for unpaid taxes levied against any piece or parcel of land so leased, bears to the total amount of delinquent taxes for which such land was forfeited and sold to the county in which said lands is situated.

§ 5. All acts and parts of acts, insofar as they conflict herewith are hereby repealed.

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

Approved March 15, 1939.

## CHAPTER 238

S. B. No. 51—(Young, Blaisdell, Thatcher, Braun, Blank)

## REDEMPTION OF COUNTY TAX DEED PROPERTY

An act providing for the redemption of real estate forfeited to the county for delinquent taxes by former owners, prescribing the conditions therefor, providing for the re-purchase of real estate forfeited to the county for delinquent taxes on contract for deed, prescribing the terms therefor, and declaring an emergency.

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

§ 1. Any real estate heretofore or hereafter forfeited to the county under tax deed proceedings, shall be subject to redemption by the owner whose title was forfeited, or his successor in interest, at any time while the tax title thereto remains in such county and prior to re-sale, upon the payment of the amount which would have been required to effect a redemption had no tax deed been issued thereon, plus interest at the rate of four (4%) per cent per annum, from the date of the execution of such tax deed; provided that such right of redemption shall not interfere with the existing right of the county to re-sell real estate acquired by tax deed at any time as otherwise provided by law. Where a redemption is made under this act, the county auditor shall execute a quit claim deed in behalf of the county for such real estate to the person making such redemption.

§ 2. Any person making redemption under this act shall be entitled to take advantage of the benefits of any tax reduction, or other tax adjustment terms provided for by this legislature for the purpose of encouraging and facilitating the payment of delinquent taxes.

§ 3. The board of county commissioners shall also have the power to enter into a contract for deed for the re-sale to the former owner, or his successor in interest, of any real estate which has been forfeited to the county on tax deed proceedings, upon the same terms as redemption could be made hereunder, provided, that no such contract for deed shall be made unless at least twenty-five (25%) per cent of the redemption amount is paid in cash at the time of the execution of such contract for deed, and the balance, with accrued interest, at the rate of four (4%) per cent per annum, shall be made payable in annual installments within three (3) years. When the deferred installments of any such contract for deed, with accrued interest, have been paid in full, the county auditor shall execute a quit claim deed in behalf of the county to the vendee, or his assignee. In case the vendee, under such re-purchase contract, fails to pay one or more of the installments due thereunder, the board of county commissioners shall have the power to declare such

contract for deed cancelled, and thereupon all rights of such vendee in such real estate shall be forfeited to the county.

§ 4. This act is in the nature of supplemental emergency legislation designed to encourage and facilitate the redemption or repurchase of real estate forfeited to the counties on tax deed by former owners and shall be liberally construed to carry out that purpose.

§ 5. An emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved February 18, 1939.

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## CHAPTER 239

S. B. No. 258—(Committee on Taxes and Tax Laws)

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### SUSPENSION OF TAX LIENS ON STATE ACQUIRED LANDS

An act providing suspension of remedies to enforce or effectuate tax liens, certificates and titles affecting lands acquired by the State Treasurer as Trustee for the State of North Dakota under the provisions of Sections 2290b9 and 2290c9 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, and acts amendatory thereof, providing for removal of such suspension upon sale of said lands, providing authority for payment of the original amounts of general taxes, and cancellation of liens, certificates and titles based thereon, and providing for repeal of all inconsistent acts, including Chapter 290 of the North Dakota Session Laws of 1931, and declaring an emergency.

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

§ 1. In all transactions where the State Treasurer as Trustee for the State of North Dakota has heretofore acquired or hereafter acquires title to any tracts of land pursuant to the provisions of Sections 2290b9 and 2290c9 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, and acts amendatory thereof, and there are listed and legally charged against such tracts of land unpaid general property, hail indemnity, or other taxes, or tax sales certificates, or tax deeds, the holders of the liens of such taxes or certificates or tax titles shall be without power to enforce or to effectuate such liens or titles, all remedies for the enforcement or enjoyment of such liens or titles shall be wholly suspended, and all proceedings to enforce or effectuate such liens or titles subsequent to the acquisition of such tracts of land by the said Trustee and during the time such tracts are owned by said Trustee shall be null and void; provided, that any tax title acquired previous to the

acquisition of title by the said Trustee may be made effectual and enjoyed until such time as the said Trustee acquires title based upon a mortgage or other conveyance previous in time to the due date of the taxes upon which such tax title is based, whereupon all rights, interests, powers, privileges and immunities theretofore owned and enjoyed under such tax title shall be wholly suspended forthwith, and the said Trustee may enter into possession of such tracts of land and shall have the entire control, use and enjoyment thereof.

§ 2. Upon sale of such tracts of land by the said Trustee, and upon payment to him of not less than twenty per centum of the sale price of the particular tract or tracts sold, the provisions of Section 1 hereof shall become inoperative with respect to such lands sold, and the general statutory remedies to enforce and effectuate tax liens and titles shall be applicable.

§ 3. The said Trustee, or the Bank of North Dakota, as agent for him, when the income received or in prospect from any particular tract of land acquired warrants, shall pay to counties owning and holding tax liens, certificates or titles suspended under the provisions of Section 1 hereof, but otherwise legally sufficient, monies equal in amount to the original amounts of the general taxes upon which such liens, certificates or titles are based, and the treasurers of the respective counties of this State shall accept such monies in full payment of the amounts due on or invested in or on account of such tax liens, certificates or titles, which shall thereafter be null and void, and the evidences of which shall thereupon be cancelled from the tax records of the State and of its subdivisions, by the appropriate fiscal officers.

§ 4. The provisions of Chapter 290 of the North Dakota Session Laws of 1931, and the provisions of all other acts or parts of acts in conflict herewith are hereby repealed.

§ 5. An emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1939.

## CHAPTER 240

H. B. No. 185—(Committee on Taxes and Tax Laws)

## ELIMINATION OF TAX SALE CERTIFICATES

An act relating to the issuance of tax sale certificates; the payment of subsequent taxes; the issuance of subsequent tax sale certificates; amending and reenacting Section 2192 as amended by Chapter 298, Session Laws of 1931 of the Supplement to the Compiled Laws of 1913; and to make the records of the county auditor evidence of the rights of the county; and dispensing with the necessity of issuing tax sale certificates and subsequent tax sale certificates to the counties; repealing all acts and parts of acts in conflict herewith; saving clause and declaring an emergency.

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

§ 1. Section 2192 of the Supplement of the Compiled Laws of 1913 as amended by Chapter 298 of the Session Laws of 1931 is hereby amended and reenacted to read as follows:

§ 2192, CERTIFICATE OF SALE. ASSIGNMENTS FILED. SUBSEQUENT PAYMENTS. SUBSEQUENT TAX SALE CERTIFICATES.] (a) The purchasers of any tract of real property sold by the county auditor for taxes shall be entitled to a certificate describing the land so purchased, stating the sum paid and the time when the purchaser will be entitled to a deed, which certificate shall be signed by the county auditor in his official capacity and shall be presumptive evidence of the regularity of all prior proceedings. The owner of such tax sale certificate shall be entitled to a tax deed three (3) years from the date of tax sale upon the giving of the statutory notice of expiration of period of redemption.

The county auditor shall execute to the purchaser a certificate of sale which certificate shall be substantially in the following form:

## COUNTY CERTIFICATE OF SALE FOR TAXES

I, \_\_\_\_\_ auditor for the County of \_\_\_\_\_ in the State of North Dakota, do hereby certify that the following described real estate in said county and State, to-wit: (describing the same), was on the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 19\_\_\_\_, sold by me in the manner provided by law for the delinquent taxes of the year \_\_\_\_\_ thereon, amounting to \_\_\_\_\_ dollars, including interest and penalty thereon, and the costs allowed by law to \_\_\_\_\_ for the sum of \_\_\_\_\_ dollars, he being the bidder who agreed to accept the lowest rate of interest thereon from the date of sale on the amount of such taxes, penalties and costs as paid by him, and that said rate of interest which said purchaser so agreed to accept was \_\_\_\_\_ per cent per annum.

And I further certify that unless redemption is made of said real estate in the manner provided by law the said \_\_\_\_\_

or assignee will be entitled to a deed therefor on and after the \_\_\_\_\_ day of \_\_\_\_\_ A. D. on the surrender of this certificate.

In Witness Whereof, I have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 19\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Auditor

(b) Such certificate shall be assignable, and the assignee shall acquire all of the rights of the original purchaser of the real property described therein. He may present the assigned certificate to the county auditor for entry and such auditor shall enter on the record of such sale the fact that the certificate has been assigned, entering the name and address of the assignee and the date when such assignment was presented for such entry.

(c) When the county shall be the purchaser of any tract of real property sold by the county auditor for taxes it shall not be necessary to issue a certificate of sale, but the records in the office of the county auditor, showing that such sale was made, shall stand in lieu of such tax sale certificate and the county shall be entitled to all of the rights granted to it by law as a purchaser of such property at tax sale as fully as if a certificate of sale had been issued.

(d) The owner of a tax sale certificate may pay the taxes upon the property described in such tax sale certificate for any subsequent year at any time after the second installment of taxes becomes delinquent. Upon payment of any such taxes with accrued interest and penalty thereon into the county treasury, the county auditor shall issue to the person entitled thereto a certificate which shall be known as a "subsequent tax sale certificate." Such subsequent tax sale certificate shall describe the premises upon which taxes were paid as subsequent; the number of the original tax sale certificate, that the person to whom the subsequent tax sale certificate is issued has the right to pay taxes as subsequent, either by virtue of being the holder and owner of an unredeemed tax sale certificate or an unredeemed subsequent tax sale certificate. The subsequent tax sale certificate shall also recite that by virtue of the payment of such subsequent taxes the person paying the same will be entitled to a tax deed of said property at the expiration of three (3) years from the date of tax sale at which said property would have been sold for taxes, in case said taxes had not been paid as subsequent, unless the same is redeemed by the payment of the amount set forth in such subsequent tax sale certificate together with interest thereon at the rate of one-half ( $\frac{1}{2}$ ) of one (1) per cent per month from the date of such certificate.

A subsequent tax sale certificate shall have the effect of conveying all the rights, interest, privilege and title which would be conveyed by an original certificate of tax sale issued pursuant to the regular auditor's tax sale. The owner of the subsequent tax sale certificate shall be entitled to a deed three (3) years from the date of tax sale at which the real estate described in such certificate would

have been sold for taxes in case said taxes had not been paid as subsequent upon giving of the statutory notice of expiration of period of redemption. The procedure prescribed by Section 2223 of the Supplement to the Compiled Laws of 1913 shall be followed, and in case redemption is not made, tax deed shall be issued in the same manner and with the same force and effect as though issued under an original tax sale certificate issued pursuant to a regularly conducted tax sale.

At all tax sales made as provided herein, except in case of purchase by the county, the county treasurer shall make out a tax receipt in duplicate and shall write thereon the words "Sold for Taxes." The same record of subsequent tax sale certificates shall be kept by the county auditor as is kept for tax sale certificates.

The owner of the subsequent tax sale certificate may pay the taxes for any subsequent year at any time after they become delinquent and upon such payment the county auditor shall execute to him a subsequent tax sale certificate in form similar to the form set forth with only such change in the wording as is appropriate to state the fact that such payment was made as the owner of a subsequent tax sale certificate and not the owner of a tax sale certificate. Such subsequent tax sale certificate may be substantially in the following form:

SUBSEQUENT TAX SALE CERTIFICATE

-----County, North Dakota.

I, -----county auditor of-----County in the State of North Dakota do hereby certify that at the annual tax sale of real estate held on the-----day of December, 19---the following described real estate was sold for the taxes of the year----- to -----of----- for the aggregate sum of----- (\$-----) dollars, and there was issued to such purchaser tax sale certificate No.-----; and that thereafter, the owner of said tax sale certificate paid subsequent taxes upon said real estate for the year -----which payment was made on-----and it is hereby certified that there is due him on account of subsequent taxes for said year, the sum of----- (\$-----) dollars, together with interest at six per cent (6%) per annum from -----, and that unless redemption be made from this subsequent tax sale certificate within three (3) years from December-----, 19---, he will be entitled after due notice given, to a tax deed conveying to him the said real estate.

Given under my hand and the seal of the county auditor of -----County, North Dakota, this-----day of-----19---

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County Auditor of-----County.

§ 2. SUBSEQUENT TAX SALE CERTIFICATES NEED NOT BE ISSUED TO THE COUNTY.] As to all real property upon which the county is holding the original certificate of tax sale or any subsequent tax sale certificate or is entitled to the rights of such holders no further or additional subsequent tax sale certificates need be issued to the said county, but as of the date of the annual tax sale the county auditor shall note upon his records the amount of the subsequent taxes unpaid upon any real property upon which the county is holding such certificate of sale or subsequent tax sale certificate. The entry of such notation upon the records in the office of the county auditor shall have the affect to convey to the county all the rights, interest, privileges and title which would be conveyed by an original certificate of tax sale issued pursuant to the regular annual auditor's tax sale. The county shall be entitled to a tax deed three years from the date of tax sale at which the said real estate would have been sold for such taxes in case said taxes had not been paid as subsequent, upon giving the statutory notice of expiration of period of redemption. In case redemption is not made tax deeds shall be issued in the same manner and with the same force and effect as though issued under an original tax sale certificate pursuant to a regularly conducted tax sale.

§ 3. CERTIFICATES DEEMED TO HAVE BEEN ISSUED.] In all cases where the county has heretofore purchased any tract of real property sold by the county auditor for taxes or where the county became entitled to a subsequent tax sale certificate on real property upon which the county was holding the original certificate of tax sale or a subsequent tax sale certificate, it shall be conclusively presumed that a tax sale certificate or subsequent tax sale certificate, as the case may be, was duly issued at the time when the same should have been issued pursuant to statutes. In the event any such tax sale certificates may not be among the records of the county auditor, the records of his office showing such tax sale purchase or the right of the county to subsequent tax sale certificates shall for all purposes stand in lieu of such actual certificates and the county shall have all the rights provided by law as the holder of a tax sale certificate or subsequent tax sale certificate from and as of the date when such certificate should have been issued.

§ 4. SUBSEQUENT ISSUANCE OF CERTIFICATES AUTHORIZED.] In all cases where the county has heretofore purchased or may hereafter purchase any real property sold by the county auditor for taxes and in all cases where subsequent tax sale certificates should have been issued to the county and in all cases hereafter where the county is entitled to the rights of a subsequent tax sale certificate holder, the county auditor may at any time issue to the county, appropriate tax sale certificates or subsequent tax sale certificates and the records in the office of such county auditor shall be sufficient evidence of the facts to warrant the issuance of such certificates.

Such certificates may be issued by the auditor conducting such tax sale or by a successor. Such certificate, when issued, shall relate back to the date of the tax sale to which it has appropriate reference and shall have the same force and effect as if such certificate had been issued on the date of such tax sale, provided, it shall not be necessary to issue tax sale certificates to the county, except in cases where the county is perfecting title and taking a tax deed, and in cases where assignments have been made or may be made hereafter of the right of the county obtained at the sales of delinquent taxes.

§ 5. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 6. SAVING CLAUSE.] Should any portion of this act be declared unconstitutional, it shall not affect the other part or portions thereof.

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

Approved March 15, 1939.

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## CHAPTER 241

S. B. No. 26—(Committee on Taxes and Tax Laws.)

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### USE TAX

An act to impose a tax on the storage, use or consumption in this State of tangible personal property as such terms are defined herein: to provide certain exemptions therefrom; to provide for the collection of such tax and the administration of this act; to fix fines and penalties for the violation of the provisions of this act and declaring an emergency.

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

§ I. DEFINITIONS.] The meaning ascribed to words and phrases in Chapter 249 of the Session Laws of North Dakota for the year 1937 and any amendment or reenactment thereof shall apply to this act when such words are used herein and in addition the following words, terms and phrases shall have the meaning ascribed to them in this section:

(1) "Use" means and includes the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include processing, or the sale of that property in the regular course of business. Property used in "processing" within the meaning of this subsec-

tion shall mean and include (a) any tangible personal property including containers which it is intended shall, by means of fabrication, compounding, manufacturing, or germination, become an integral part of other tangible personal property intended to be sold ultimately at retail, (b) fuel which is consumed in creating power, heat or steam for processing or for generating electric current, (c) industrial materials and equipment, which are not readily obtainable in North Dakota, and which are directly used in the actual fabricating, compounding, manufacturing or servicing of tangible personal property intended to be sold ultimately at retail.

(2) "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

(3) "Purchase price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise; provided that cash discounts allowed and taken on sales shall not be included.

(4) "Tangible personal property" means tangible goods, wares, and merchandise, and gas, electricity, and water when furnished or delivered to consumer or users within this State.

(5) "Retailer" means and includes every person engaged in the business of selling tangible personal property for use within the meaning of this act; provided, however, that when in the opinion of the Tax Commissioner it is necessary for the efficient administration of this act to regard any salesman, representatives, truckers, peddlers or canvassers as the agents of the dealers, distributors, supervisors, employers or persons under whom they operate or from whom they obtain the tangible personal property sold by them irrespective of whether they are making sales on their own behalf or on the behalf of such dealers, distributors, supervisors, employers, or persons, the Tax Commissioner may so regard them and may regard the dealers, distributors, supervisors, employers, or persons as retailers for purposes of this act.

(6) "Retailer maintaining a place of business in this State" or any like term, shall mean and include any retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily, or whether such retailer or subsidiary is authorized to do business within this State.

§ 2. TAX IMPOSED.] An excise tax is hereby imposed on the storage, use or consumption in this State, of tangible personal property purchased at retail, between the effective date of this act and the 30th day of June, 1941, for storage, use or consumption in this

State, at the rate of two per cent (2%) of the purchase price of such property.

§ 3. EXEMPTIONS.] This act is hereby declared to be supplementary to the retail sales tax laws of this State and shall not apply:

(1) To any tangible personal property the sale of which is subject to the retail sales tax imposed by Chapter 249 of the Session Laws of the State of North Dakota for the year 1937 or any amendments thereof or re-enactments thereof.

(2) To motor vehicles upon which there has been paid the tax imposed by Chapter 167 of the Session Laws of the State of North Dakota for the year 1937.

(3) To tangible personal property brought into this State by a nonresident thereof for his own storage, use or consumption while temporarily within this State.

(4) To tangible property used in interstate transportation or interstate commerce.

(5) To tangible personal property used for the performance of a contract on public works executed prior to the effective date of this act.

(6) To tangible personal property upon which the State now imposes and collects a special tax, whether in the form of license tax, stamp tax or otherwise.

(7) To the storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing, compounding for sale, profit or use, any article, substance, or commodity which tangible personal property becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished, and the container labeled or the furnished shipping case thereof.

(8) To industrial materials and supplies which are directly used or consumed in the actual fabricating, compounding, manufacturing or servicing of tangible personal property intended to be sold ultimately at retail.

(9) To any person whose total purchases shall be less than \$50.00 during any quarter year for which a report is required.

§ 4. EVIDENCE OF USE.] For the purpose of the proper administration of this act and to prevent evasion of the tax, evidence that tangible personal property was sold by any person for delivery in this State shall be prima facie evidence that such tangible personal property was sold for use in this State.

§ 5. PAYMENT OF TAX.] The tax herein imposed shall be paid in the following manner:

(1) The tax provided herein upon tangible personal property, which is sold by a retailer maintaining a place of business in this State, or by such other retailer as the Tax Commissioner of the

State of North Dakota shall authorize pursuant to Subsection (2) of Section 6 shall be collected by such retailer and remitted to the Tax Commissioner of the State of North Dakota, pursuant to the provisions of Section 6 hereof.

(2) The tax herein imposed not paid pursuant to Subsection (1) hereof shall be paid to the Tax Commissioner of the State of North Dakota directly by any person storing, using or consuming such property within this State, pursuant to the provisions of Section 6 hereof.

§ 6. COLLECTION TAX.]

(1) Every retailer maintaining a place of business in this State and making sales of tangible personal property for use in this State, not exempted under the provisions of Section 3 hereof, shall before making any such sales obtain the permit provided for in Section 11 of Chapter 249 of the Session Laws of the State of North Dakota for the year 1937 or any amendment or re-enactment thereof, and shall at the time of making such sales, whether within or without the State, collect the tax imposed by this act from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the Tax Commissioner of the State of North Dakota, if the Tax Commissioner of the State of North Dakota, shall, by regulation, require such receipt. Each such retailer shall list with the Tax Commissioner of the State of North Dakota the name and address of all his agents operating in this State, and the location of any and all his distribution or sales houses or offices or other places of business in this State.

(2) The Tax Commissioner of the State of North Dakota, may, in his discretion, upon application authorize the collection of the tax herein imposed by any retailer not maintaining a place of business within the State, who, to the satisfaction of the Tax Commissioner of the State of North Dakota furnishes adequate security to insure collections and payment of the tax. Such retailer shall be issued a permit to collect such tax in such manner, and subject to such regulations and agreements as the Tax Commissioner of the State of North Dakota shall prescribe. When so authorized, it shall be the duty of such retailer to collect the tax upon all tangible property sold to his knowledge for use within this State, in the same manner and subject to the same requirements as a retailer maintaining a place of business within this State. Such authority and permit may be cancelled when, at any time, the Tax Commissioner of the State of North Dakota considers the security inadequate, or that such tax can more effectively be collected from the person using such property in this State.

(3) The tax herein required to be collected by any retailer pursuant to subsections 1 and 2 hereof, and any tax collected by any retailer pursuant to said subsections, shall constitute a debt owed by the retailer to this State.

(4) Each retailer required or authorized, pursuant to this section, to collect the tax herein imposed, shall pay the tax in quarterly installments on or before the 20th day of the month next succeeding each quarterly period, the first of such period being the period commencing with April 1, 1939 and ending on the 30th day of June, 1939. Every retailer, at the time of making the return required hereunder, shall compute and pay to the Tax Commissioner the tax due for the preceding period.

(5) The retailer shall, on or before the 20th day of the month following the close of the first quarterly period as defined in the preceding section, and on or before the 20th day of the month following each subsequent quarterly period of three months, make out a return for the preceding quarterly period in such form and manner as may be prescribed by the commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further information as the commissioner may require to enable him correctly to compute and collect the tax herein levied; provided, however, that the Tax Commissioner may, upon receipt by any retailer and a proper showing of the necessity therefor, grant unto such retailer an extension of time not to exceed thirty (30) days for making such return. If such extension is granted to any such retailer, the time in which he is required to make payment shall be extended for the same period. The Tax Commissioner if he deems it necessary or advisable in order to insure the payment of the tax imposed by this act may require returns and payment of the tax to be made for other than quarterly periods, the provisions of this act to the contrary notwithstanding. The returns shall be signed by the taxpayer or his duly authorized agent and must be verified by oath.

(6) Any person who uses any property upon which the tax herein imposed has not been paid, either to the retailer or direct to the Tax Commissioner as herein provided, shall be liable therefor, and shall on or before twentieth day of the month next succeeding each quarterly period pay the tax herein imposed upon all such property used by him during the preceding quarterly period in such manner and accompanied by such returns as the Tax Commissioner shall prescribe. All of the provisions of Section 6 with reference to such returns and payments shall be applicable to the returns and payment herein required.

(7) The Tax Commissioner may, when in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under this act, require any person subject to such tax to file with him a bond, issued by a surety company authorized to transact business in this State and approved by the Insurance Commissioner as to solvency and responsibility, in such amount as the Tax Commissioner may fix, to secure the payment of any tax and/or penalties due or which may become due from such person. In lieu of such bond, securities approved by the Tax Commis-

sioner, in such amount as he may prescribe, may be deposited with him, which securities shall be kept in the custody of the Tax Commissioner and may be sold by him at public or private sale, without notice to depositor thereof, if it becomes necessary so to do in order to recover any tax and/or penalties due. Upon such sale, the surplus, if any above the amounts due under this division shall be returned to the person who deposited the securities.

(8) The Tax Commissioner shall have the power to adopt and promulgate rules and regulations for adding such tax, or the average equivalent thereof, by providing different methods applying uniformly to retailers within the same general classification for the purpose of enabling such retailers to add and collect, as far as practicable, the amount of such tax.

§ 7. UNLAWFUL ADVERTISING.] It shall be unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the tax or any part thereof imposed by this act will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. Any person violating any of the provisions of this Section within this State shall be guilty of misdemeanor and subject to a fine of not to exceed one hundred (\$100.00) dollars for each offense or to imprisonment for not to exceed thirty (30) days or to both such fine and imprisonment in the discretion of the court.

§ 8. RECORDS REQUIRED.] Every retailer required or authorized to collect taxes imposed by this act and every person using in this State tangible personal property purchased on or after the effective date of this act shall keep such records, receipts, invoices, and other pertinent papers as the Tax Commissioner shall require, in such form as the Tax Commissioner shall require. The Tax Commissioner or any of his duly authorized agents is hereby authorized to examine the books, papers, records and equipment of any person either selling tangible personal property or liable for the tax imposed by this act, and to investigate the character of the business of any such persons in order to verify the accuracy of any return made, or if no return was made by such person, to ascertain and determine the amount due under the provisions of this act. Any such books, papers, and records shall be made available within this State for such examination upon reasonable notice when the Tax Commissioner shall deem it advisable and shall so order.

§ 9. REVOCATION OF PERMIT AND AUTHORITY TO DO BUSINESS.] When any retailer maintaining a place of business in this State, or authorized to collect the tax herein imposed, fails to comply with any of the provisions of this act, or any orders, or regulations of the Tax Commissioner prescribed and adopted under this act, the Tax Commissioner may, upon notice and hearing as here-

inafter provided, by order revoke the permit, if any issued to such retailer, or if such retailer is a corporation authorized to do business in this State, may certify to the Secretary of State a copy of an order finding that such retailer has failed to comply with certain specified provisions, orders, rules or regulations. The Secretary of State shall, upon receipt of such certified copy, revoke the permit authorizing said corporation to do business in this State, and shall issue a new permit only when such corporation shall have obtained from the Tax Commissioner an order finding that such corporation has complied with its obligations under this act. No order authorized in this section shall be made until the retailer is given an opportunity to be heard to show cause why such order should not be made and he shall be given ten days notice of the time, place, and purpose of such hearing. The Tax Commissioner shall have the power in his discretion to issue a new permit after such revocation.

§ 10. ARTICLES TAXED IN OTHER STATES.] If any article or tangible personal property has already been subjected to a tax by any other State in respect to its sale or use in an amount less than the tax imposed by this act, the provisions of this act shall apply, but at a rate measured by the difference only between the rate herein fixed and the rate by which the previous tax upon the sale or use was computed. If such tax imposed in such other State is two per cent (2%) or more, then no tax shall be due on such articles.

§ 11. RETAIL SALES ACT APPLICABLE.] All of the provisions of Section 5, Subsections 4 and 5 of Section 10, and Sections 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 of Chapter 249 of the Session Laws of the State of North Dakota for the year 1937 and any amendment or re-enactment thereof shall apply to this act, all of which sections are by this reference incorporated herein, and the Tax Commissioner of the State of North Dakota is hereby charged with the enforcement of this act and shall administer this act and the taxes imposed by this act in the same manner and subject to all the provisions of and all of the procedure, powers, duties, authorities and restrictions contained in the retail sales tax laws in effect in the State of North Dakota so far as the same may be thereunder applicable hereto.

§ 13. CONSTITUTIONALITY.] If any section, subsection, clause, sentence, or phrase of this act is for any reason held to be unconstitutional and invalid, such decision shall not effect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, clause, sentence or phrase hereof, irrespective of whether any one or more of the sections, subsections, clauses, sentences, or phrases, be declared unconstitutional.

§ 14. UNLAWFUL SALE OR SOLICITING.] It shall be unlawful for any agent, canvasser, or employee of any retailer, not authorized by permit from the Tax Commissioner of the State of North Dakota to collect the tax as herein provided, to sell, solicit orders for or deliver any tangible personal property in this State. Any such agent canvasser or employee violating the provisions of this act shall be guilty of a misdemeanor and subject to a fine of not to exceed one hundred (\$100.00) dollars for each such offense, or to imprisonment for not to exceed thirty (30) days or to both such fine and imprisonment in the discretion of the court.

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

Approved March 14, 1939.

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## CHAPTER 242

H. B. No. 175—(Committee on Taxes and Tax Laws.)

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### WHOLESALE LIQUOR TRANSACTION TAX

An act to provide revenue by means of a transaction tax upon sales of certain alcoholic beverages by licensed wholesale liquor dealers; authorizing the State Treasurer to prescribe rules and regulations for the collection thereof; prescribing the method of payment of the tax to, and collection by, the State Treasurer, and providing penalty.

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

§ 1. A tax is hereby imposed upon all sales by licensed wholesale liquor dealers to licensed retail liquor dealers within the State of North Dakota, of alcohol and alcoholic beverages, excluding malt beverages, containing more than four per-cent (4%) of alcohol by weight, according to the following schedule:

(a) On all sales of alcoholic beverages, excluding malt beverages, containing more than 4% of alcohol by weight but not more than 24% of alcohol by weight, a tax equal to 7% of the sale price.

(b) On all sales of alcoholic beverages containing not more than 50% but not less than 24% alcohol by weight, a tax equal to 8% of the sale price.

(c) On all sales of alcohol and alcohol substitutes, regardless of proof, a tax equal to 25% of the sale price.

The authority is hereby vested in the State Treasurer of the State of North Dakota to determine what constitutes alcohol substitutes.

§ 2. All licensed wholesale liquor dealers are required to add the amount of the tax imposed in the preceding section to the sale price of merchandise sold to licensed retail liquor dealers, and the sale price, and the tax imposed, shall constitute the selling price of such merchandise. The tax known as excise tax as provided in Section 7 of Chapter 259 of the Session Laws of 1937, known as the Initiated Liquor Control Act, shall not be included as any part of the sale price of merchandise as provided in this section.

§ 3. Fifteen days after the expiration of the first calendar month after the effective date of this act all licensed wholesale liquor dealers are required to file with the State Treasurer a list showing the respective prices to retailers of all alcohol and alcoholic beverages coming within the terms of this act, which list shall be sworn to by any duly authorized officer of the respective wholesaler, and which lists may be amended from time to time by wholesalers by the filing of sworn additions thereto, such amendments to be effective under this act five days after such filing.

§ 4. Fifteen days after the expiration of the first calendar month after the effective date of this act, and fifteen days after the expiration of each calendar month thereafter, all licensed wholesale liquor dealers are required to transmit to the State Treasurer copies of all invoices of liquor sold during the preceding thirty day period, which invoices shall show the name and address of the purchaser, the date of sale, the sale price of the merchandise sold, the kind of merchandise, the number and size of containers, and the tax computed on the transaction and, the wholesaler is required to remit with such invoices the amount of the tax thus charged during the period covered by the transmitted invoices.

§ 5. The tax herein imposed shall be computed on the sale price of the merchandise sold as shown by the list and amendments thereto filed under the provision of Section 3, unless the price shown on the invoices required to be filed under Section 4 shall be greater than that appearing in the list, and then the tax shall be computed on the price appearing on the invoice.

§ 6. Taxes paid in accordance with the provisions of this act on accounts found to be worthless and actually charged off for income tax purposes, may be credited upon subsequent payments of the tax herein provided; provided that if such accounts are thereafter collected by the wholesaler, a tax shall be paid upon the amount so collected.

§ 7. All funds collected by and paid to the State Treasurer under the terms of this act shall be promptly credited to the general funds of the State of North Dakota.

§ 8. The State Treasurer shall prepare such forms and make all regulations to effect the economical and effective payment of

the foregoing tax as are not inconsistent with the terms of this act.

§ 9. Violation of this act shall constitute a misdemeanor, punishable in the manner and form as by the laws of the State of North Dakota provided.

Approved March 15, 1939.

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## TREES

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### CHAPTER 243

S. B. No. 22—(Thatcher)

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#### DISTRIBUTION OF SEEDS AND SEEDLINGS BY STATE FORESTER

An act to amend and re-enact Chapter 220 of the Session Laws of 1929 relating to the distribution of seeds and seedlings by the State Forester, and declaring an emergency.

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

§ 1. AMENDMENT.] That Chapter 220 of the Session Laws of 1929, be amended and re-enacted to read as follows:

DISTRIBUTION: Seeds and seedlings from such nursery shall be distributed to citizens and landowners of this State upon payment of cost of production or collection as in the case of seeds and the cost of transportation from the nursery, except in the case of seedlings distributed for the specific purpose of live snow fence or highway beautification plantings; which may be distributed free of charge. As a condition precedent to such distribution the citizen or landowner making application therefor must agree to plant the seeds and seedlings distributed under the directions of the State Forester and in conformity with his instructions.

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

Approved February 4, 1939.