

then be used as an authority for writing a receipt of the total of such check or checks and shall credit such amount to the General Fund. One copy of such receipt with list of checks affected shall be provided to the State Auditor.

§ 2. SUBSEQUENT PAYMENT.] In the event any such check or checks is at any subsequent time presented for payment, the holder thereof shall execute a voucher for the amount, to which shall be attached the original check or other satisfactory evidence of ownership of such check. The voucher when approved by the State Auditor and State Auditing Board shall be paid by a State Auditor's warrant drawn on the General Fund.

Approved March 10, 1945.

TAXATION

CHAPTER 293

S. B. No. 134

Introduced by Judiciary Committee

APPEALS FROM DETERMINATION OF TAX COMMISSIONER

An Act Repealing Section 57-3841 of the North Dakota Revised Code of 1943 relating to appeals from the determination of the tax commissioner to any court.

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

§ 1. REPEAL.] Section 57-3841 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 12, 1945.

CHAPTER 294

S. B. No. 177

Introduced by Senators Foss, Blank, Raschko, and Braun

AUTHORIZATION TAX FOR ADVERTISING BY CERTAIN
COUNTIES

An Act Authorizing counties in which are located cities having a population in excess of 3000 and cities having a population in excess of 3000 to levy a tax for the purpose of advertising the resources and processing opportunities in North Dakota and promoting the industrial development thereof, and repealing all acts or parts of acts in conflict herewith:

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

§ 1. The Board of County Commissioners of any county in which there is located a city having a population in excess of 3000, according to latest Federal census and the governing body of any city having a population in excess of 3000 according to latest Federal census, may annually levy a tax for the purpose of advertising the resources and processing opportunities in North Dakota and promoting the industrial development thereof. Such tax shall not exceed the amount produced by the levy of half ($\frac{1}{2}$) mill on a dollar of the net taxable valuation of the county or city as the case may be.

When any county or city makes the levy provided for by this act, the expenditure of the fund shall be under the direction of the governing boards of such county or city. The levy of such half ($\frac{1}{2}$) mill tax authorized by this act shall not be subject to other mill limitations prescribed by law.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

Approved February 28, 1945.

CHAPTER 295

S. B. No. 154

Introduced by Senators Feton and Kehoe

COLLECTION OF TAX AND REFUNDS IN PROBATE CASES

An Act Amending and re-enacting Section 57-3724 of the North Dakota Revised Code of 1943, relating to Collections of tax, and Refunds therefrom.

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

§ I. AMENDMENT.] That Section 57-3724 of the North Dakota Revised Code of 1943 be and the same is hereby amended and re-enacted to read as follows:

57-3724. COLLECTIONS OF TAX; REFUNDS.] The county treasurer in the county where the probate is had shall collect the tax levied under this chapter, and shall certify the same to the county auditor at the end of each calendar month. He shall pay over to the state treasurer thirty-five percent of such tax, and shall retain sixty-five percent thereof, which he shall deposit to the credit of the general fund of the county. In all cases wherein no county court has jurisdiction, the amount of the tax shall be determined by the tax commissioner, and the state treasurer shall collect the same, deposit thirty-five percent of the amount received to the credit of the general fund of the state and apportion the remaining sixty-five percent thereof to the respective county treasurers of the counties in which is located the property base of such tax, each of whom shall deposit the sum so received by him to the general fund of his county. No executor, administrator, or trustee shall be entitled to a final discharge in an estate in settlement of which taxes are due, unless he shall produce a receipt showing the payment of such tax. In case an overpayment of such tax has been made, such overpayment shall be repaid out of any estate tax funds in the hands of the county treasurer, upon an order of the county court approved by the tax commissioner. A certified copy of such an order shall be filed with the state treasurer and he shall credit the account with the amount of the state's proportionate liability on such refund. In any case where the state treasurer has collected the entire estate tax, refunds may be made upon approval of the tax commissioner in the same manner as other claims against the state are paid.

Approved March 2, 1945.

CHAPTER 296

S. B. No. 46

Introduced by Senator Dahlen

COUNTY LANDS, TERM OF LEASE

An Act To Amend and Re-enact Section 57-2824 of North Dakota Revised Code of 1943 to Permit Longer Leases to Cooperative Grazing Associations, Soil Conservation Districts, Mutual Aid Corporations and Individuals, and to Declare an Emergency.

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

§ 1. AMENDMNET.] That Section 57-2824 of North Dakota Revised Code of 1943 be and the same is hereby amended and re-enacted to read as follows:

57-2824. All leases of such lands shall be made subject to sale and shall be limited in duration to a term not to exceed five years; provided, however, that in the discretion and sound judgment of said county commissioners, any 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, any duly incorporated soil conservation district, any duly incorporated mutual aid corporation, or to any individual, within this State. Farm lands sold after January first of any year shall be sold subject to the existing lease for that year.

§ 2. An emergency is hereby declared to exist, and this Act is declared to be in full force and effect from and after its passage and approval.

Approved March 12, 1945.

CHAPTER 297

H. B. No. 71

Introduced by Representative Maher

COUNTY TAX LEVY, INCREASE ALLOWED IN CERTAIN
CASES

An Act Authorizing the Bank of North Dakota to loan money to counties unable to raise sufficient funds by general taxation to carry on their primary Governmental functions or to pay their mandatory obligations; providing for the levy of an additional general tax to provide funds for the repayment of such loans with interest; creating a special fund; prohibiting a diversion thereof; and declaring an emergency.

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

§ 1. The Bank of North Dakota is hereby authorized to make loans to counties for the purposes specified by this act upon such terms, conditions and under such rules and regulations as the Industrial Commission may prescribe or approve, provided, however, that upon the completion of such loan the county making application therefor shall levy a general tax upon all of the taxable property of the county for the repayment thereof, with interest, when said debt shall mature.

§ 2. Whenever in the discretion of the Board of County Commissioners of any county in this State all taxes authorized to be levied in any one year for general or special county purposes, are insufficient to carry on the primary governmental functions, or to pay the mandatory obligations imposed by law upon counties, then such counties are hereby authorized to borrow money from the Bank of North Dakota in such an amount or amounts as the board of county commissioners shall determine to be necessary or sufficient to meet the deficiencies existing in its general or special funds, or to carry on its primary governmental functions, and to pay its mandatory obligations.

§ 3. Whenever the board of county commissioners desire to make a loan from the Bank of North Dakota for any of the purposes authorized herein, it shall make an application which shall set forth the assessed valuation of the county, the amount of taxes levied for the current year or years involved, the status of its general and special funds, and the amount required to carry on its primary governmental functions and to pay its mandatory obligations, and such other data as the Industrial Commission may require; said application shall be verified by the certificate of the county auditor as to the accuracy thereof.

§ 4. Upon the approval of an application for a loan by the

Industrial Commission, the board of county commissioners applying for such loan shall be required to levy a general tax from year to year upon all of the general taxable property of the county, not to exceed three mills for any one year, for the purpose of providing funds sufficient to repay the amount of said loan, with interest, at the time of maturity such loans to be evidenced by the issuance of Certificates of Indebtedness in the same manner and form as now prescribed by law. The levy of said tax shall not be subject to any existing mill levy limitations for general or special county purposes, but shall be in addition thereto. Said tax shall be levied and collected at the same time and in the same manner as other general or special taxes for county purposes are levied and collected.

§ 5. The board of county commissioners authorizing the levying of such tax shall establish a special fund in the county treasury designated as the "County Loan Fund" and all moneys collected from the general tax levied for the purpose of repaying any loans, with interest, shall be deposited to the credit of said special fund and shall be used only for the purpose of repaying the principle, with accrued interest, due upon loans made by the county as the same shall mature, provided however, that the balance, if any, remaining in said special fund, after the amount of the loan, with accrued interest, shall have been paid in full, may be transferred by the county commissioners to the General Fund of the county.

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

Approved March 16, 1945.

CHAPTER 298

H. B. No. 65

Introduced by Representatives Hogoboom and Still,
Fitch, Crockett, and Bymers

COUNTY VETERANS SERVICE OFFICER, TAX LEVY

An Act Authorizing counties to levy a tax of not to exceed one half mill on the dollar of the net assessed taxable valuation of the county to provide a fund for payment of the salary and traveling expenses of the County Veterans' Service Officer to be appointed under the provisions of Chapter 30 of the Authenticated Edition of the Special Session Laws of 1944; Such levy not to be limited by Section 57-1506 of the North Dakota Revised Code of 1943.

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

§ 1. LEVY AUTHORIZED FOR COUNTY VETERANS' SERVICE

OFFICER'S SALARY AND TRAVEL EXPENSES.] The county commissioners of each county are hereby authorized to levy annually a tax of not to exceed one-half mill on the dollar of the net assessed taxable valuation of the county, to provide a fund, not to exceed the sum of Five-Thousand Dollars (\$5,000.00), for the payment of the salary and traveling expenses of the county veterans' service officer authorized to be appointed by Chapter 30 of the Authenticated Edition of the Special Session Laws of 1944.

§ 2. LEVY NOT LIMITED BY SECTION 57-1506 OF THE NORTH DAKOTA REVISED CODE OF 1943.] Such levy shall in no manner be limited by the provisions of Section 57-1506 of the North Dakota Revised Code of 1943.

Approved February 28, 1945.

CHAPTER 299

S. B. No. 78

Introduced by Judiciary Committee

INCOME TAX DEDUCTIONS

An Act To amend and re-enact Section 57-3824 of North Dakota Revised Code of 1943 pertaining to net losses and exceptions in income tax rates, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 57-3824 of North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

§ 57-3824. NET LOSSES; MEANING; EXCEPTIONS.] As used in this chapter, the term "net loss" means the excess of the deductions allowed by this chapter over the gross income, with the following exceptions and limitations:

1. Deductions otherwise allowed by law not attributable to the operation of a trade or business regularly carried on by the taxpayer shall be allowed only to the extent of the amount of the gross income not derived from such trade or business;
2. There shall be included in computing gross income, the amount of interest received free from tax under this chapter, decreased by the amount of interest paid or accrued which is not allowed as a deduction under this chapter.

§ 2. EMERGENCY.] This Act is hereby declared to be an emergency measure due to the fact that the two sentences eliminated from

the above section is in conflict with the other provisions of the income tax law, and shall be in force and effect from and after its passage and approval.

Approved February 24, 1945.

CHAPTER 300

S. B. No. 79

Introduced by Committee on Judiciary

INCOME TAX NET LOSS DEDUCTION REPEALED

An Act To repeal Section 57-3825 of North Dakota Revised Code of 1943 providing for a net loss as a deduction in income tax, and declaring an emergency.

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

§ 1. REPEAL.] That section 57-3825 of North Dakota Revised Code of 1943 providing for a net loss as a deduction, be and the same is hereby repealed.

§ 2. EMERGENCY.] This Act is hereby declared to be an emergency measure due to the fact that this section is in conflict with other provisions of the income tax laws of the State of North Dakota, and shall be in full force and effect from and after its passage and approval.

Approved February 24, 1945.

CHAPTER 301

H. B. No. 37

Introduced by Representatives Hovey, Saumur and Brady

LEVY FOR PARK DISTRICT PURPOSES

An Act To amend and re-enact Subdivisions one (1) and three (3) of Section 57-1512 of the North Dakota Revised Code of 1943, and declaring an emergency.

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

§ 1. Subdivision one (1) of Section 57-1512 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

1. The aggregate amount levied for park district purposes, exclusive of levies to pay interest on bonded debt and levies to pay and discharge the principal thereof, shall not exceed such amount as will be produced by a levy of three mills on the dollar of the net taxable assessed valuation of the district for the current year.

§ 2. Subdivision three (3) of Section 57-1512 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

3. Whenever the board of Park Commissioners deem it advisable to raise monies by taxes in excess of the levy herein provided, for any purposes for which the park district is authorized to expend monies raised by taxes, such board of Park Commissioners may increase the levy as herein provided in any amount not to exceed ten (10) mills on the dollar of the net taxable assessed valuation of the district when authorized by a majority of the qualified electors of the park district voting at any regular election in which the question has been submitted.

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

Approved March 2, 1945.

CHAPTER 302

H. B. No. 281

Introduced by Delayed Bills Committee

LICENSE FEES, MOTOR FUEL DEALERS

An Act Amending and Re-enacting Section 57-4123 of the North Dakota Revised Code of 1943, Relating to License Fees for Motor Fuel Dealers.

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

§ 1. AMENDMENT.] That Section 57-4123 of the North Dakota Revised Code of 1943, is hereby amended and re-enacted to read as follows:

§ 57-4123. LICENSE FEE; ISSUANCE OF LICENSE.] Upon the payment of a fee of two dollars by the applicant, the state auditor, if satisfied that the applicant for a licenses to sell tax exempt motor fuel is a resident of this state, or if such applicant holds a motor vehicle fuel dealer's license issued by the state auditor to do business in the State of North Dakota and the location to be licensed outside the borders of North Dakota is contiguous to a trade territory in

North Dakota, may issue to such applicant a license to sell such motor fuel from a station designated in the license. A separate license shall be secured for each station at which tax exempt motor fuel is sold.

Approved February 28, 1945.

CHAPTER 303

S. B. No. 128

Introduced by Committee on Tax and Tax Laws

PROCEEDS FROM LIFE INSURANCE, TAX EXEMPTION

An Act To amend and re-enact Section 57-3710 of the North Dakota Revised Code of 1943 pertaining to proceeds from life insurance policies of a decedent.

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

§ I. AMENDMENT.] That Section 57-3710 of North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

§ 57-3710. PROCEEDS FROM LIFE INSURANCE POLICIES.] All proceeds from life insurance policies of a decedent not in excess of \$25,000 shall be exempt from taxation under the provisions of this Chapter, but all proceeds from life insurance policies of a decedent in excess of \$30,000 shall be included in the gross estate of the decedent and be subject to the estate tax.

Approved March 10, 1945.

CHAPTER 304

H. B. No. 87

Introduced by Representatives Moe, Lillehaugen and Haugen

ROAD AND BRIDGE LEVY UNORGANIZED TOWNSHIPS

An Act To amend and re-enact Section 57-1522 of the North Dakota Revised Code of 1943 relating to levy for road and bridge purposes in unorganized townships.

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

§ I. AMENDMENT.] That Section 57-1522 of the North Da-

kota Revised Code of 1943 be amended and re-enacted to read as follows:

57-1522. TAX LEVY LIMITATIONS IN UNORGANIZED TOWNSHIPS.] Tax levies in unorganized townships shall be limited as follows:

1. The total tax for road and bridge purposes levied by the board of county commissioners in any unorganized township shall not exceed four mills on the dollar of the net taxable assessed valuation of the township, but this shall not prohibit the levy of general county road and bridge taxes in such unorganized township.

Approved March 10, 1945.

CHAPTER 305

H. B. No. 55

Introduced by Representative Brady

SALE OF COUNTY TAX DEED PROPERTY

An Act To amend and re-enact Section 57-2819 of the North Dakota Revised Code of 1943 relating to the sale of real estate obtained by the County on Tax deed.

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

§ 1. AMENDMENT.] Section 57-2819 of the North Dakota Revised Code of 1943, is hereby amended and re-enacted to read as follows:

§ 57-2819. RIGHTS OF FORMER OWNER TO REPURCHASE.] The former owner, his executor or administrator, or any member of his immediate family, shall have the right to repurchase all real estate forfeited to the county under tax deed proceedings, so long as the tax title thereto remains in the county; provided, however, that in the event any city, town or village has theretofore made a special assessment for public improvements against any such tract, piece or parcel of land, which special assessment has become delinquent and remains unpaid, such city, town or village shall have a right to purchase for cash, at the appraised value, prior to that of the former owner. The County auditor of any county, immediately upon appraisal of such property, shall give notice thereof to the auditor of any such city, town or village and such city, town or village shall have thirty (30) days within which to purchase said property. The purchase by a former owner may be for cash or upon contract for deed made by and between the board of county commissioners and the former owner, his executor or administrator, or any member of

his immediate family. The consideration of such contract shall include:

1. The total amount required to be paid in the notice to affect a redemption;
2. The total amount of all subsequent taxes with interest, penalties, and costs.

If the fair market value of such property at the time of the repurchase thereof is less than the amount to be paid to effect a redemption, together with all subsequent taxes, interest, penalties, and costs, the board shall fix a fair and just sale price for such property, and shall require the former owner, his executor or administrator, or any member of his immediate family, to pay at least twenty-five percent of the total contract price in cash and the remainder shall be payable in not to exceed ten annual equal installments as the board of county commissioners may determine. Such installments shall bear interest at four percent per annum until paid in full. Such contract shall further provide that if the vendee or his successor in interests fails to pay one or more of the installments when due, with interest, the board of county commissioners may cancel such contract and thereupon all payments and improvements made by the vendee or his successor in interest shall be forfeited to the county as liquidated damages for breach of contract unless otherwise expressly provided. Upon the full performance of such contract, the county shall execute and deliver a deed to the purchaser which shall be executed in the manner in which tax deeds are executed and shall have the legal effect prescribed by the terms of this chapter. In case of repurchase or contract for repurchase of such tax deed land before the first of April, such land shall be assessed and taxed for the current year, and the repurchaser shall be entitled to the rental and landlord's share of crops on such land for such year. In case of the repurchase or contract for repurchase of such tax deed land after March thirty-first, the land shall not be assessed and taxed for the current year, and the county shall retain the rental and landlord's share of the crops thereon for that year. In all cases wherein the repurchase or contract for repurchase of tax deed land is made after the first of January, such repurchase or contract for repurchase, will be subject to an existing farm lease of the lands so repurchased or contracted to be repurchased, for the year in which such repurchase or contract for repurchase is made.

Approved March 14, 1945.

CHAPTER 306

S. B. No. 194

Introduced by Senators Raschko, Blank, Page and Brunsdale

STATE INCOME TAX DEDUCTIONS

An Act To amend and re-enact subsection b. of paragraph 4 of Section 57-3822 of the North Dakota Revised Code of 1943 relating to deductions allowed in computing net income; to amend and re-enact Section 57-3826 of the North Dakota Revised Code of 1943 relating to exemptions for individuals; providing for the recognition of fifty percent of capital gains and losses in computing income for income tax purposes.

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

§ 1. AMENDMENT.] That subsection b. of paragraph 4 of Section 57-3822 of the North Dakota Revised Code of 1943 be amended and re-enacted to read as follows:

b. If for any taxable year beginning after December 31, 1941, a taxpayer has a net operating loss from trade or business, such net operating loss may be carried forward by the taxpayer as a credit against the net income, both taxable and non-taxable, received in any of the four succeeding years, subject to the following limitations:

1. No carry-over loss shall accrue to any taxpayer, except to the extent that the loss of such year shall exceed any income not taxable under this chapter received in the same year;

2. The carry-over loss from any prior year or years may be deducted from the taxable income of any tax year only to the extent that such carry-over loss shall exceed any non-taxable income received in such tax year; and

3. The carry-over in the second and succeeding taxable year shall be the excess, if any, of the amount of such net operating over the net income, both taxable and non-taxable, for the intervening taxable years;

§ 2. AMENDMENT.] That Section 57-3826 of the North Dakota Revised Code of 1943 be amended and re-enacted to read as follows:

57-3826. EXEMPTION FOR INDIVIDUALS.] For the purpose of the tax on individuals, there shall be deducted from the net income, the following exemptions:

1. In the case of a single individual, an exemption of Five Hundred (\$500.00) Dollars;

2. In case of a head of a family or married individual living with husband or wife, a personal exemption of Fifteen Hundred (\$1500.00) Dollars. A husband and wife living together shall re-

ceive but one personal exemption of fifteen hundred dollars against their aggregate net income, and in case they make separate returns, the personal exemption of fifteen hundred dollars (\$1500.00) may be taken by either or divided between them;

3. Five hundred dollars for each individual, other than husband or wife, dependent upon and receiving chief support from the taxpayer, if such dependent individual is under eighteen years of age or is incapable of self-support because mentally or physically defective or incapacitated, but an exemption may be claimed for a child over the age of eighteen years and under the age of twenty-one (21) years if dependent upon the taxpayer for support and attending an educational institution.

HEAD OF HOUSEHOLD: If the taxpayer would not occupy the status of head of family except by reason of there being one or more dependents for whom he could be entitled to credit; the credit shall be disallowed with respect to one of such dependents.

§ 3. CAPITAL GAINS AND LOSSES.] In the case of a taxpayer, either individual or corporation, only fifty percent of the gain or loss recognized upon the sale or exchange of a capital asset shall be taken into account in computing net capital gain, net capital loss, and net income.

§ 4. DEFINITIONS.]

1. Capital Assets. The term "capital assets" means property held by the taxpayer (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in their inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property used in the trade or business, of a character which is subject to the allowance for depreciation.

2. Capital Gains. The term "capital gains" means gain from the sale or exchange of a capital asset held for more than six months.

3. Capital Loss. The term "capital loss" means loss from the sale or exchange of a capital asset held for more than six months.

Approved March 12, 1945.

CHAPTER 307

S. B. No. 130

Introduced by Senators Bridston, Lynch and Brant

STATE INCOME TAX RETURNS, AUDIT

An Act To amend and re-enact Section 57-3838 of the North Dakota Revised Code of 1943, pertaining to audit of returns and assessment of additional tax; repealing all Acts or parts of Acts in conflict herewith.

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

§ 1. AMENDMENT.] That Section 57-3838 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

§ 57-3838. TAX COMMISSIONER TO AUDIT RETURNS AND ASSESS TAX.] The Tax Commissioner shall proceed to audit the returns of taxpayers and, not later than three years after the due date of the return, assess the tax and, if any additional tax is found due, shall notify the taxpayer in detail as to the reason for the increase, provided, however, that this time limitation shall not apply in case of any false or fraudulent information given in the return.

§ 2. REPEAL.] All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

Approved March 2, 1945.

CHAPTER 308

S. B. No. 87

Introduced by Senators Morgan, Schrock, O'Brien, Kehoe,
Blank, Bridston, Raschko, Feton and Murry

SALES TAX

An Act To Equalize Taxation and Replace in Part the Tax on Property; to provide the Public Revenue to be Used for Such Replacement by Imposing a Tax on the Gross Receipts from Retail Sales as Defined Herein; to Provide for the Collection of Such Tax, the Distribution and Use of the Revenue Derived Therefrom, and the Administration of Said Law; to Provide for Certain Deductions and Exemptions; Establishing a Lien for the Payment of Such Tax; to Fix Fines and Penalties for the Violation of the Provisions of This Act; to Repeal all Laws or Parts of Laws in Conflict Herewith.

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

§ 1. DEFINITIONS.] The following words, terms and phrases, when used in this Act, have the meanings ascribed to them in this section, except where the context clearly indicated a different meaning:

(a) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number.

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

(c) "Retail Sale" or "Sale at Retail" means the sale to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property and the sale of steam, gas, electricity, water, and communication service to retail consumers or users, and shall include the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list, or catalogue, which such customer might order, or be ordered for such customer to be shipped directly to such customer. By the term "processing" as used in this Act is meant tangible personal property that is used in manufacturing, producing or processing and which becomes an ingredient or competent part of other tangible personal property and which latter tangible personal property becomes subject to the retail sales tax. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to other real or personal property otherwise exempt from the sales tax shall for the purposes of this Act be considered as a sale of tangible personal property for a purpose other than for processing.

(d) "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit, or advantage, either direct or indirect.

(e) "Retailer" includes every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, electricity, water and communication services, and tickets or admissions to places of amusement and athletic events as provided in this Act, and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided, and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the State in the manner provided in this Act.

(f) "Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided, further, that on all sales of retailers, valued in money, when such sales are made under conditional sales contract, or under other forms of sale wherein the payment of the principal sum thereunder be extended over a period longer than sixty (60) days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted, for the purpose of imposition of tax imposed by this bill, as has actually been received in cash by the retailer during each quarterly period as defined herein.

(g) "Relief agency" means the State, any County, City and County, City or District thereof, or any agency engaged in actual relief work.

(h) "Commissioner" means the Tax Commissioner of the State of North Dakota.

(i) "Local Governmental Unit" means Incorporated Cities, Towns and Villages, Counties, School Districts and Townships.

§ 2. TAX IMPOSED.] There is hereby imposed, beginning the first day of July, 1945, and ending June 30, 1947, 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 and the playing of a record on a vending machine, in response to a coin placed in a slot, except as otherwise provided in this Act.

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

§ 3. EXEMPTIONS.] There are hereby specifically exempted from the provisions of this Act and from computation of the amount of tax imposed by it, the following:

(a) The gross receipts from sales of tangible personal property which this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

(b) The gross receipts from the sales, furnishing or service of transportation service.

(c) The gross receipts from sales of tangible personal property processed from agricultural products, when such property is sold in exchange for like agricultural products produced by the purchaser and is for the use of the purchaser and his family.

(d) The gross receipts from sales of tickets or admissions to State, County, District and Local Fairs, and the gross receipts from educational, religious, or charitable activities, where the entire amount of such receipts is expended for educational, religious or charitable purposes.

(e) The gross receipts from the sale by any school board of this State of books and school supplies to regularly enrolled students at costs.

(f) Gross receipts from sales of tangible personal property or from furnishing or service of steam, gas, electricity, water, and communication service to the United States, State of North Dakota or any of its subdivisions, departments or institutions, any County, City, Village, Township, School District, Park District, or Municipal Corporations.

§ 4. Taxes paid on gross receipts represented by accounts found to be worthless and actually charged off, for income tax purposes may be credited upon subsequent payment of the tax herein provided; provided, that if such accounts are hereafter collected by the retailer, a tax shall be paid upon the amount so collected. The provisions of this Act shall not apply to sales of gasoline, cigarettes, snuff, insurance premiums, or any other product or article upon which the State of North Dakota may now or hereafter impose a special tax.

§ 5. CREDIT TO RELIEF AGENCY AND LOCAL GOVERNMENTAL UNITS.]

(1) A relief agency may apply to the Commissioner for refund of the amount of tax imposed hereunder and paid upon sales to it of any goods, wares, or merchandise used for free distribution to the poor and needy ;

(2) Such refunds may be obtained only in the following amount and in the manner and only under the following conditions :

(a) On forms furnished by the Commissioner, and during the time herein provided for the filing of quarterly tax returns by retailers, the relief agency shall report to the Commissioner the total amount or amounts, valued in money, expended directly or indirectly for goods, wares, or merchandise used for free distribution to the poor and needy.

(b) On these forms the relief agency shall separately list the persons making the sales to it or to its order, together with the dates of the sales, and the total amount, so expended by the relief agency.

(c) The relief agency must prove to the satisfaction of the Commissioner that the person making the sales has included the amount thereof in the computation of the gross receipts of such person and that such person has paid the tax levied by this division, based upon such computation of gross receipts.

(3) If the Commissioner is satisfied that the fore-going conditions and requirements have been complied with, he shall refund the amount claimed by the relief agency.

§ 6. Retailers shall add the tax imposed under this Act, or the average equivalent thereof, to the sales price or charge and when added such taxes shall constitute a part of such price or charge, shall be a debt from consumer or user to retailer until paid, and shall be recoverable at law in the same manner as other debts.

Agreements between competing retailers, or the adoption of appropriate rules and regulations by organizations or associations of retailers to provide uniform methods for adding such tax or the average equivalent thereof, and which do not involve price fixing agreements otherwise unlawful, and which shall first have the approval of the Commissioner, are expressly authorized and shall be held not to be in violation of any anti-trust laws of this State.

§ 7. UNLAWFUL ACTS.] It shall be unlawful for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this Act shall be assumed or absorbed by the retailer or that it will not be considered as an element in the price to the consumer, or if added, that it or any part thereof will be refunded.

§ 8. RECORDS REQUIRED.] It shall be the duty of every re-

tailer required to make a report and pay any tax under this provision, to preserve such records of the gross proceeds of sales as the Commissioner may require and it shall be the duty of every retailer to preserve for a period of two years all invoices and other records of goods, wares, or merchandise purchased for resale; and all such books, invoices and other records shall be open to examination at any time by the Commissioner or any one of his duly authorized agents.

§ 9. RETURN OF GROSS RECEIPTS.]

(1) The retailer shall, on or before the 20th day of the month following the close of the first quarterly period as defined in the following 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 Commissioner may, upon request 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 as provided for in Section Ten (10) of this Act shall be extended for the same period.

(2) The Commissioner, if he deems it necessary or advisable in order to insure the payment of the tax imposed by this Act, may require returns and payment of the tax to be made for other than quarterly periods, the provisions of Section Ten (10) or elsewhere to the contrary notwithstanding.

(3) Returns shall be signed by the retailer or his duly authorized agent.

§ 10. PAYMENT OF TAX, BOND, CREATION OF LIEN:]

(1) The tax levied hereunder shall be due and payable 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 July 1, 1945, and ending on the 30th day of September, 1945.

(2) Every retailer, at the time of making the return required hereunder, shall compute and pay to the Commissioner the tax due for the preceding period.

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

Sub-§ 4. LIEN OF TAX. COLLECTION. ACTION AUTHORIZED.] Whenever any taxpayer liable to pay a tax and/or penalty imposed refuses or neglects to pay the same, the amount, including any interest, penalty, or addition to such tax, together with the costs that may accrue in addition thereto, shall be a lien in favor of the State of North Dakota upon all property and rights to property, whether real or personal, belonging to said taxpayer.

The lien aforesaid shall attach at the time the tax becomes due and payable and shall continue until the liability for such amount is satisfied.

In order to preserve the aforesaid lien against subsequent mortgages, purchasers or judgment creditors, for value and without notice of the lien, on any property situated in a county, the Tax Commissioner shall file with the Register of Deeds of the county in which said property is located, a notice of said lien.

The Register of Deeds of each county shall prepare and keep in his office a book to be known as "Index of Tax Liens", so ruled as to show in appropriate columns the following data, under the names of taxpayers, arranged alphabetically.

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

The Register of Deeds shall indorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall forthwith index said notice in said index book and shall forthwith record said lien in the manner provided for recording real estate mortgages, and the said lien shall be effective from the time of the indexing thereof.

The Tax Commissioner shall pay a recording fee as provided by law for the recording of such lien, or for the satisfaction thereof.

Upon the payment of a tax as to which the Tax Commissioner

has filed notice with the Register of Deeds, the Tax Commissioner shall forthwith file with said Register of Deeds a satisfaction of said tax and the Register of Deeds shall enter said satisfaction on the notice on file in his office and indicate said fact on the index aforesaid.

The Attorney General shall, upon the request of the Tax Commissioner, bring an action at law or in equity, as the facts may justify, without bond to enforce payment of any taxes and/or penalties, and in such action he shall have the assistance of the State's Attorney of the county in which the action is pending.

It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by the Tax Commissioner or Attorney General shall be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law.

The technical, legal requirements outlined in this Section relating to tax liens on all real and personal property of the taxpayer to insure payment of the taxes, including penalties, interest and other costs, are self-explanatory.

(5) Remittances on account of tax due under this Act shall not be deemed or considered payment thereof unless or until the Commissioner shall have collected or received the amount due for such tax in cash or equivalent credit.

§ 11. PERMITS; APPLICATIONS FOR.]

(1) It shall be unlawful for any person to engage in or transact business as a retailer within this State unless a permit or permits shall have been issued to him as hereinafter prescribed. Every person desiring to engage in or conduct business as a retailer within this State shall file with the Commissioner an application for a permit or permits. Every application for such a permit shall be made upon a form prescribed by the Commissioner and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business and such other information as the Commissioner may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner thereof; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority.

(2) At the time of making such application, the applicant shall pay to the Commissioner a permit fee of fifty cents (50c) for each permit, and the applicant must have a permit for each place of business.

(3) Upon the payment of the permit fee, or fees herein required, the Commissioner shall grant and issue to each applicant a permit for each place of business within the State. A permit is not

assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

(4) Permits issued under the provisions of this section shall be valid and effective without further payment of fees until revoked by the Commissioner.

(5) Whenever the holder of a permit fails to comply with any of the provisions of this section or any rules or regulation prescribed by the Commissioner and adopted under this section, the Commissioner upon hearing after giving ten days' notice of the time and place of the hearing to show cause why his permit should not be revoked, may revoke the permit. The Commissioner shall also have the power to restore licenses after such revocation.

(6) The Commissioner shall charge a fee of One Dollar (\$1.00) for the issuance of a permit to a retailer whose permit has been previously revoked.

(7) It is hereby provided that all permits issued under the provisions of Chapter 276, 1935 Session Laws, and all subsequent re-enactments thereof and in effect up to the taking effect of this Act are hereby continued and shall remain in full force and effect unless revoked as herein provided:

§ 12. FAILURE TO FILE RETURN; INCORRECT RETURN.] If a return required by this section is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the same is required by notice from the Commissioner, such Commissioner shall determine the amount of tax due from such information as he may be able to obtain, and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by him, his stock on hand, and/or other factors. The Commissioner shall give notice of such determination to the person liable for the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed shall within thirty days after the giving of notice of such determination, apply to the Commissioner for a hearing or unless the Commissioner of his own motion shall reduce the same. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the Commissioner shall give notice of his decision to the person liable for the tax.

§ 13. APPEALS.]

(1) An appeal may be taken by the taxpayer to the District Court of the county in which he resides, or in which his principal place of business is located, within sixty days after he shall have received notice from the Commissioner of his determination as provided for in the preceding Section.

(2) The appeal shall be taken by a written notice to the Commissioner and served as an original notice. When said notice is so served it shall, with the return thereon, be filed in the office of the Clerk of said District Court, and docketed as other cases, with the taxpayer as plaintiff and the Commissioner as defendant. The plaintiff shall file with such Clerk a bond for the use of the defendant, with sureties approved by such Clerk, in penalty at least double the amount of tax appealed from, and in no case shall the bond be less than Fifty Dollars (\$50.00), conditioned that the plaintiff shall perform the orders of the Court.

(3) The Court shall hear the appeal in equity and determine anew all questions submitted to it on appeal from the determination of the Commissioner. The Court shall render its decree thereon and a certified copy of said decree shall be filed by the Clerk of said Court with the Commissioner who shall then correct the assessment in accordance with said decree. An appeal may be taken by the taxpayer or the Commissioner to the Supreme Court of this State in the same manner that appeals are taken in suits in equity, irrespective of the amount involved.

§ 14. SERVICE OF NOTICE.]

(1) Any notice, except notice of appeal, authorized or required under the provisions of this Act may be given by mailing the same to the person for whom it is intended by registered mail addressed to such person at the address given in the last return filed by him pursuant to the provision of this division, or if no return has been filed, then such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this division by the giving of notice shall commence to run from the date of registration and posting of such notice.

(2) The provisions of the North Dakota Code relative to the limitation of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this Act.

§ 15. PENALTIES, OFFENSES.]

(1) Any person failing to file a return or corrected return or to pay any tax within the time required by this division, shall be subject to a penalty of five per cent (5%) of the amount of tax due, plus one per cent (1%) of such tax for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due; but the Commissioner, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the Commissioner and disposed of in the same manner as other receipts under this Act. Unpaid

penalties may be enforced in the same manner as the tax imposed by this Act.

(2) Any person who shall sell tangible personal property, tickets or admissions to places of amusement and athletic events, or steam, gas, water, electricity and communication service at retail in this State after his license shall have been revoked, or without procuring a license within sixty (60) days after the effective date of this Act, as provided in Section 11 of this Act, or who shall violate the provisions of Section 7 of this Act, and the officers of any corporation who shall so act, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than one year, or both such fine and imprisonment, in the discretion of the Court.

(3) Any person required to make, render, sign or verify any return or supplementary return, who makes any false or fraudulent return, with intent to defeat or evade the assessment required by law to be made, shall be guilty of a misdemeanor and shall, for each such offense, be fined not to exceed Five Hundred Dollars (\$500.00) or be imprisoned in the County Jail not exceeding one year, or be subject to both a fine and imprisonment, in the discretion of the Court.

(4) The certificate of the Commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this Act, shall be prima facie evidence thereof.

(5) Any person failing to comply with any of the provisions of this Act, or failing to remit within the time herein provided to the State the tax due on any sale or purchase of tangible personal property subject to said sales tax, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the County Jail not exceeding six (6) months or by a fine not exceeding Five Hundred Dollars (\$500.00), or by both such fine and imprisonment at the discretion of the Court. This criminal liability shall be cumulative and in addition to the civil liability for penalties hereinbefore provided.

§ 16. The Tax Commissioner of the State of North Dakota is hereby charged with the administration of this Act and the taxes imposed thereby. Such Commissioner shall have power and authority to prescribe all rules and regulations not inconsistent with the provisions of this Act, necessary and advisable for its detailed administration and to effectuate the purposes, including the right to provide for the issuance and sale by the State of coupons covering the amount of tax or taxes to be paid under this Act, if such method is deemed advisable by said Commissioner.

§ 17. All fees, taxes, interest and penalties imposed and/or collected under this Act must be paid to the Commissioner in the

form of remittance payable to the Treasurer of the State of North Dakota, and said Commissioner shall transmit each payment monthly to the State Treasurer to be deposited in the State Treasury to the credit of a fund to be known as the Retail Sales Tax Fund, which fund is hereby created and established.

§ 18. GENERAL POWERS.]

(1) The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income and/or receipts of any taxpayer, shall have power: to examine or cause to be examined by any agent or representative designated by him, books, papers, records or memoranda; to require by subpoena the attendance and testimony of witnesses; to issue and sign subpoenas; to administer oaths, to examine witnesses and receive evidence; to compel witnesses to produce for examination books, papers, records and documents relating to any matter which he shall have the authority to investigate or determine.

(2) Where the Commissioner finds the taxpayer has made a fraudulent return, the costs of said hearing shall be taxed the taxpayer. In all other cases the cost shall be paid by the State.

(3) The fees and mileage to be paid witnesses and taxed as costs shall be the same as prescribed by law in proceedings in the District Court of this State in civil cases. All costs shall be taxed in the manner provided by law in proceedings in civil cases. Where the costs are taxed to the taxpayer, they shall be added to the taxes assessed against said taxpayer and shall be collected in the same manner. Costs taxed to the state shall be certified by the Commissioner to the State Treasurer, who shall issue warrant for the amount of said costs, to be paid out of the proceeds of the taxes collected under this act.

(4) In case of disobedience to a subpoena the Commissioner may invoke the aid of any court of competent jurisdiction in requiring the attendance and testimony of witnesses and production of records, books, papers, and documents, and such court may issue an order requiring the person to appear before the Commissioner and give evidence or produce records, books, papers, and documents, as the case may be, and any failure to obey such order of Court may be punished by the Court as a contempt thereof.

(5) Testimony on hearings before the Commissioner may be taken by a deposition as in civil cases, and any person may be compelled to appear and depose in the same manner as witnesses may be compelled to appear and testify as hereinbefore provided.

§ 19. (1) The Commissioner may appoint such agents, auditors, clerks and employees as he may deem necessary and fix their salaries and compensation and prescribe their duties and powers, and said Commissioner shall have the right to remove such agents,

auditors, clerks and employees so appointed by him; provided, that the number of inspectors appointed shall not exceed ten, each of whom shall have had at least three years experience in the auditing and checking of books of account.

(2) All such agents and employees shall be allowed such reasonable and other necessary traveling expenses as may be incurred in the performance of their duties not to exceed, however, such amounts as are now or may hereafter be fixed by law.

(3) The Commissioner may require such of the officers, agents and employees as it may designate to give bond for the faithful performance of the duties in such sum and with such sureties as it may determine and the State shall pay, out of the proceeds of the taxes collected under the provisions of this Act, the premiums on such bonds.

(4) The Commissioner may utilize the office of the Treasurer of the various counties in order to administer this Act and effectuate its purposes, and may appoint the Treasurers of the various counties its agents to collect any or all of the taxes imposed by this Act, provided, however, that no additional compensation shall be paid to said Treasurer by reason thereof.

§ 20. INFORMATION DEEMED CONFIDENTIAL.]

(1) It shall be unlawful for the Commissioner, or any person having an administrative duty under this act, to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any person or corporation visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract of particulars thereof to be seen or examined by any person except as provided by law; provided, however, that the Commissioner may authorize examination of such returns by other State officers, or, if a reciprocal arrangement exists, by tax officers of another state, or the Federal Government.

(2) Any person violating the provisions of Sub-section 1 of this Section shall be guilty of a misdemeanor and punishable by fine not to exceed one thousand dollars (\$1,000.00).

§ 21. CORRECTION OF ERRORS.] If it shall appear that, as a result of mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of this Act, then such amount shall be credited against any tax due, or to become due, under this Act from the person who made the erroneous payment, or such amount shall be refunded to such person by the Commissioner.

§ 22. Wherever by any provision of this Act a refund is

authorized, the Commissioner shall certify the amount of the refund, the reason therefor and the name of the payee to the State Auditor, who shall thereupon draw his warrant on the Retail Sales Tax Fund in the amount specified payable to the named payee.

§ 23. ALLOCATION OF REVENUE.] All moneys 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. That the net amount of moneys remaining in said "Retail Sales Tax Fund" shall be and shall constitute a special trust fund to be used and disbursed solely for the following purposes:

(1) That seven-twelfths ($7/12$) of said trust fund shall be used and disbursed only for the payment of appropriations made pursuant to and for the purposes set forth in the State Equalization Fund Law. That the remaining five-twelfths ($5/12$) of said trust fund shall be used and disbursed only for the payment of appropriations to be expended by the Public Welfare Board for the purposes authorized by law; provided, however, that appropriations made from the General Fund to be expended by said Public Welfare Board shall constitute and include appropriations from said five-twelfths ($5/12$) share of said trust fund.

(2) That the State Treasurer and State Auditor are hereby authorized and directed to make monthly transfers of all the amounts available in said trust fund, in the proportions provided herein to the State Equalization Fund and to be expended by said Public Welfare Board as provided by law.

§ 24. All monies now in the Retail Sales Tax Fund created by Chapter 57-39 of the North Dakota Revised Code of 1943, or collected pursuant to the provisions of said chapter, are hereby appropriated and transferred into the Retail Sales Tax Fund created by this act, and shall be allocated and used as herein provided.

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

§ 26. REPEAL.] All laws or parts of laws in conflict with this act are hereby repealed.

Approved March 9, 1945.

CHAPTER 309

H. B. No. 46

Introduced by Representatives Leet, Graham,
Hofstrand, Stormon and Skaar

TAXATION OF PUBLIC LANDS SOLD ON CONTRACT

An Act Requiring that County Auditors be Notified Whenever Lands Owned by the State as Trustee of the Permanent School Fund are Sold Upon Contract Providing for a Future Conveyance and Providing Penalty for Failure to do so; That Upon Such Notice the County Auditor Put Such Lands upon the Tax Rolls for Assessment and Levy of Taxes; that Taxes so Levied be Not a Lien as Against the Vendor so Long as it Retains Title; that such Taxes be Cancelled and Stricken from the Tax Rolls by the County Auditor, upon Notice to Him of the Cancellation of Such Contract; that, in Case of Re-instatement of Such Contract or of Repurchase by the Vendee or His Heirs Under the Provisions of any Law Granting a Right of Reinstatement or Giving a Preference Right of Purchase, Such Taxes so Stricken shall be a Lien upon the Interest of Such Vendee or His Heirs, But not Against the Vendor, and for Delinquency and Collection of Such Taxes; that Notice be Given the County Auditor of any Reinstatement or Resale; That upon Reinstatement or Resale said Lands be Again Put Upon the Tax Rolls and Assessed and Taxes Levied as Before, Subject to Cancellation of Reinstated Contract; that before Conveyance under Reinstated Contract or Repurchase Under Preference Right, all Taxes so Levied and Cancelled and Stricken Shall be Fully Paid; that the Provisions Hereof Shall Not Apply if Land is Resold at Public Sale; and Repealing all Acts in Conflict Herewith.

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

§ 1. TAXATION OF PUBLIC LANDS SOLD ON CONTRACT.] Where real property owned by the State of North Dakota as trustee of permanent school fund for the use and benefit thereof, is sold upon contract providing for a future conveyance, the department or office making such contract on the part of the vendor shall immediately notify the county auditor of the county wherein said real property is situated, of the making of said contract, the description of the real property therein described, and the name of the vendee, and said real property shall be put upon the tax rolls of said county and the same shall be assessed and taxes levied, based upon said assessed value from and after the 1st day of April next succeeding the date of such contract and failure to do so shall make the Commissioner of school lands personally liable in a civil action to be brought by the state's attorney of the county wherein the land lies; against such Commissioner for the amount of the taxes that would have been levied had such notice been given as herein provided.

§ 2. CANCELLATION OF TAXES UPON CANCELLATION OF CONTRACT.] If, and when, such contract shall be cancelled and annulled by the vendor, such taxes shall be immediately cancelled and

stricken from the tax rolls by the county auditor upon notice to him by the vendor of such cancellation.

§ 3. REINSTATEMENT OF TAX UPON REINSTATEMENT OF CONTRACT OR SALE TO VENDEE UNDER PREFERENCE RIGHT.] If, and when such vendee, or his heirs or any of them, redeem said real property from such cancellation and such contract be reinstated under any law, then in effect, granting such right of reinstatement, or if and when such vendee, or his heirs, or any of them purchase said real property under the terms and conditions of any law then in effect granting a preference right of purchase, then the taxes levied upon such real property as hereinbefore provided shall be a lien upon the interest of said vendee or his heirs or any of them, but not as against the vendor, and shall become delinquent and shall be collected as other real property taxes may become delinquent and be collected.

§ 4. TAXATION AFTER REINSTATEMENT.] If, and when such contract be reinstated or said real property be repurchased as hereinbefore provided, the vendor shall immediately notify the county auditor as hereinbefore provided and said real property shall thereafter be assessed and taxes levied as hereinbefore provided, subject to cancellation of said reinstated or new contract as aforesaid, and cancellation and striking from tax rolls as aforesaid.

§ 5. PAYMENT OF TAX BEFORE CONVEYANCE.] If and when said real property be repurchased for cash by said vendee or his heirs or any of them under a preference right so to do, or when conveyance is made pursuant to such reinstated contract, said taxes so levied as aforesaid against the interest of said vendee of said real property shall be paid in addition to any sum required to be paid by the law under which such purchaser is granted a preference right of purchase.

§ 6. The provisions of this act shall not apply if said real property is purchased at a public sale thereof.

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

Approved February 28, 1945.

CHAPTER 310

S. B. No. 155

Introduced by Senators Bridston and Day

TAX LEVY FOR AIRPORT PURPOSE

An Act To permit a levy of three mills for airport purposes, in excess of all other levies permitted by law.

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

§ 1. In cities supporting airports for which no levy has been made by a park board or other taxing district, a levy in addition to all other levies permitted by law, but not to exceed three mills on the net taxable assessed valuation of property in such city, may be made for such purpose for a period not to exceed two years after the passage and approval of this act.

Approved March 9, 1945.

CHAPTER 311

S. B. No. 97

Introduced by Committee on Education

TAX LEVY FOR BUILDING FUND IN SCHOOL DISTRICTS

An Act to amend and re-enact Section 57-1516 of the North Dakota Revised Code of 1943 providing for a tax levy for building fund in school districts and providing for an election to authorize the levy of said tax, and authorizing the creation by a school district of a building fund and appropriation to said fund from the budget and limitations on such allowance in the budget, and declaring an emergency.

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

§ 1. That Section 57-1516 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

57-1516. TAX LEVY FOR BUILDING FUND IN SCHOOL DISTRICTS.] The governing body of any school district may levy taxes annually for a school building fund, not in excess of five mills, which levy shall be in addition to and not restricted by the levy limitations prescribed by law, when authorized to do so by sixty percent of the electors voting upon the question at a regular or special election in any school district. The governing body of such school district may create such building fund by appropriating and

setting up in its budget for such an amount not in excess of twenty percent of the current annual appropriation for all other purposes combined, exclusive of appropriations to pay interest and principal of the bonded debt, and not in excess of the limitations prescribed by law.

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

Approved March 9, 1945.

CHAPTER 312

S. B. No. 41

Introduced by Senator Flatt

TAX LEVIES FOR CEMETERIES

An Act Relating to the Authorization of a Two Mill Levy for the Care, Maintenance, and Improvement of Cemeteries by Organized Townships, Villages and Cities of the State of North Dakota.

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

§ 1. CEMETERY TAX LEVIES.] Organized townships, villages and cities are hereby authorized to levy a tax, not exceeding two mills on the dollar of the net assessed taxable valuations of the organized townships, villages or cities, in addition to all levies now authorized by law, for the purpose and to be used exclusively for the care, maintenance, and improvement of established cemeteries, owned and maintained by such organized townships, villages or cities.

Approved February 23, 1945.

CHAPTER 313

H. B. No. 242

Introduced by Representatives Haugen and Klefstad

TAX LEVY FOR CONSTRUCTION FUND IN VILLAGES

An Act Providing for a tax levy for a construction fund in villages; providing for an election to authorize the levy of said tax; authorizing the creation by a village of a construction fund; appropriation to said fund from the budget and limitation special allow-

ance in the budget; providing for the disposition of said construction fund; fixing a penalty for unlawful withdrawal of such construction fund; and declaring an emergency.

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

§ 1. TAX LEVY FOR CONSTRUCTION FUND IN VILLAGES.] The board of village trustees of any village may levy taxes annually for a construction fund, not in excess of five mills, which levy shall be in addition to and not restricted by the levy limitations prescribed by law, when authorized to do so by sixty percent of the electors voting upon the question at a regular or special election in any village which, at the time of making the annual levy, has no outstanding unpaid certificates of indebtedness, and in which the limitation of levy has not been increased from the basic mill rate. Such construction fund shall be used for paying all or part of the construction of waterwork systems, sewage systems, public buildings, or any other public improvements for which villages are authorized by law to pay for from general tax levies, and the board of village trustees, when submitting to the electors of the village, the question of authorizing the aforesaid tax levy, shall specify the purposes for which said construction fund is to be used. The board of village trustees of such village may create such building fund by appropriating and setting up in its budget, for such an amount not in excess of twenty percent of the current annual appropriation for all other purposes combined, exclusive of the appropriations to pay interest and principal of the bonded debt, and not in excess of the limitations prescribed by law.

§ 2. DISPOSITION OF CONSTRUCTION FUND TAX.] Revenues raised for construction purposes shall be disposed of as follows:

(1) All revenues accruing from appropriations or tax levies for a construction fund, together with such amounts as may be realized for construction purposes from all other sources, shall be placed in separate fund known as a village construction fund, and shall be deposited and held as the sinking funds of such villages are held. Such fund shall be used solely and exclusively for the purpose of constructing waterworks systems, sewage systems, public buildings or such other public improvements as the electors may have authorized, and shall be paid out by the custodian thereof, only upon order of the board of village trustees, signed by the chairman of the board of village trustees and the clerk of said village; such order must recite upon its face the purpose for which such payment is made.

(2) Any moneys remaining in a construction fund after the completion of the payments for any village construction fund project which has cost seventy-five percent or more of the amount in such construction fund at the time of letting the contracts therefor, shall

be returned to the general fund of the village upon the order of the board of village trustees.

(3) Upon the 1st day of June of each year, the custodian of any village construction fund, shall pay into the general fund of the village, any moneys which have remained in such fund for a period of ten years or more, the custodian shall consider that all payments which have been paid from the village construction fund for building purposes have been paid from the fund first acquired.

§ 4. PENALTY FOR UNLAWFUL WITHDRAWAL OF CONSTRUCTION FUND.] Every officer participating in the unlawful withdrawal of any village construction fund, shall be guilty of a misdemeanor, and shall be liable for the loss to such construction fund on his official bond.

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

Approved February 28, 1945.

CHAPTER 314

S. B. No. 178

Introduced by Senators Day, O'Brien and Lynch

TENDER OF TAXES

An Act To amend and re-enact Section 57-4510 of the North Dakota Revised Code of 1943 providing for tender of unpaid taxes in any action to test the validity of any tax deed, and providing for refund to purchaser in the event of an adverse decision.

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

§ I. AMENDMENT.] That Section 57-4510 of the North Dakota Revised Code of 1943 be amended and re-enacted to read as follows:

57-4510. TENDER OF TAXES.] Whenever any action at law or in equity is brought to test the validity of any deed issued and delivered by the county to the purchaser of lands acquired through tax deed proceedings, the court shall not proceed with the trial of such action until the party assailing the validity of such deed, within the time required by the court, shall deposit with the clerk thereof for the benefit of the County should the deed be held invalid, the amount of all delinquent and unpaid taxes on said property, including penalty and interest, plus any taxes paid thereon by the purchaser from the county. Should said action be determined ad-

versely to the purchaser from the county it shall repay to him any monies received by the county on said purchase.

Approved March 13, 1945.

CHAPTER 315

H. B. No. 189

Introduced by Representatives Isaak and Sharpe

TRANSFER CERTAIN SCHOOL FUNDS AUTHORIZED

An Act Permitting school districts to transfer from a school district's special reserve fund any amounts in such special reserve fund which have been by school districts treated in the budget as cash on hand and deducted from the amount required to be levied, and declaring an emergency.

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

§ 1. Any school district which has heretofore by mistake, or for any other reason, considered all or any part of a special reserve fund, as defined and provided for in Chapter 57-19 of the North Dakota Revised Code for 1943, in determining the budget for the school district which has deducted all or any part of the funds in such special reserve fund from the amount necessary to be levied for any school fiscal year, may transfer from the special reserve fund into the general fund all or any part of such amounts which have been so considered contrary to the provisions of Section 57-1905 of the North Dakota Revised Code of 1943.

§ 2. 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 10, 1945.

CHAPTER 316

H. B. No. 188

Introduced by Representatives Sharpe and Isaak

TRANSFER SPECIAL RESERVE FUNDS IN SCHOOL
DISTRICTS

An Act For school districts to transfer from the special reserve fund one-half of the amounts previously transferred from general funds into the special reserve funds, and providing that such transfer must be made within six months after the effective date of this act, and declaring an emergency.

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

§ 1. Any school district which has, pursuant to the provisions of Chapter 57-19 of the North Dakota Revised Code of 1943, transferred money from its general fund to the special reserve fund, may, within six months after the effective date of this act, transfer from the special reserve fund of the district to the general fund, an amount of money equal to one-half of the previous transfers made from the general fund into the special reserve fund.

§ 2. Since many school districts made transfers of money from their general fund into the special reserve fund with the belief that it could be retransferred if need arose, other than the needs specified in the law, an emergency is hereby declared to exist and this law shall be in full force and effect from and after the date of its passage and approval.

Approved March 2, 1945.

CHAPTER 317

H. B. No. 38

Introduced by Representatives Hofstrand, Schnell, Nystrom, B mers, Ostgulen, Fuglestad, Stair, Olson of Barnes, Bagge, Heckman, Leet, Haugen, Moerke, Mollet, Levin, Moe, Halcrow, Langley and Sandness

VALUATION BASIS FOR COMPUTING TAX

An Act Amending and re-enacting Section 57-0228 of the North Dakota Revised Code of 1943 relating to basis of assessment of property for taxation purposes, raising such basis from fifty percent to seventy-five percent of the full and true value of such property; 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 57-0228 of the North Dakota Revised Code of 1943 be amended and re-enacted to read as follows: The value of all property subject to a general property tax, not exempted by law nor subject to any gross sales or other lieu tax, to be used in the computation of the tax levied, shall be seventy-five percent of the full and true value thereof. Assessors and boards of review shall assess and return all taxable property at its full and true value, and the county auditor, after equalization by the state board of equalization, shall make the computations necessary to reduce the assessed value to said seventy-five percent.

§ 2. All acts and parts of acts in conflict herewith are hereby repealed.

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

Approved March 12, 1945.

CHAPTER 318

H. B. No. 39

Introduced by Representatives Hovey and Olson of Barnes

WAR EMERGENCY FUND, CITIES

An Act To amend and re-enact Section 57-1529 of the North Dakota Revised Code of 1943, relating to War Emergency Fund; Cities.

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

§ I. AMENDMENT.] Section 57-1529 of the North Dakota Revised Code of 1943, is hereby amended and re-enacted to read as follows: Section 57-1529, WAR EMERGENCY FUND; CITIES. The governing body of any city may levy a tax during each of the years 1945 and 1946 for war emergency purposes. Such tax shall not exceed the amount produced by the levy of one mill on the dollar of the net taxable valuation of the city. The monies in such fund shall not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes, but shall be shown in such budget as a "war emergency fund" and shall not be deducted from the budget as otherwise provided by law. Each city levying such tax may create a war emergency fund, and all taxes levied for war emergency purposes by any city, when collected, shall be covered into such emergency fund and shall be used only for such war emergency purposes as the governing body of the city, by ordinance, shall determine necessary. Such emergency fund may be used for the replacement or repair of public buildings or property destroyed through war activities or sabotage, for the contribution of the city's share toward the erection, construction, or purchase of any building necessary or essential to the war effort or post-war rehabilitation, including the purchase of or contribution toward the cost of any site or sites necessary for such structures or for any other expenditures necessary and essential to cooperation with the federal government or any of its agencies in any war program or post-war rehabilitation activities. The levy of a tax for such emergency purposes of one mill authorized by this chapter shall not be subject to the regular mill limitation prescribed by law.

Approved February 13, 1945.