

# TAXATION

## CHAPTER 334

H. B. No. 45

(Langley and Legislative Research Committee  
at request of State Treasurer)

### COLLECTIONS AND REFUNDS OF ESTATE TAXES

#### AN ACT

To amend and reenact Section 57-3724 of the North Dakota Revised Code of 1943 as amended and reenacted by Chapter 295 of the Session Laws of North Dakota for the year 1945, relating to collections of estate taxes and refunds therefrom.

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

§ 1. AMENDMENT.] That Section 57-3724 of the North Dakota Revised Code of 1943, as amended and reenacted by Chapter 295 of the Session Laws of North Dakota for the year 1945, is hereby amended and reenacted 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 per cent of such tax, and shall retain sixty-five per cent 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 per cent of the amount received to the credit of the general fund of the state and apportion the remaining sixty-five per cent 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. The county treasurer shall thereupon present and file with the state treasurer a verified claim

for thirty-five per cent of such overpayment of estate taxes accompanied by a certified copy of the order of the county court for such refund and the approval of the state tax commissioner and a copy of the receipt of such refund by the person or persons to whom such refund was paid. The state treasurer shall present such verified claim to the state auditor and the same shall be paid upon approval by the state auditing board.

In any case where the state treasurer has collected the entire estate tax, a refund of the whole overpayment shall be made by the state treasurer upon receipt of a verified claim by the party making such overpayment accompanied by a certified copy of the order of refund made by the state tax commissioner. The state treasurer thereupon shall file a certified copy of such order with the county treasurer and the county treasurer shall remit to the state treasurer the county's proportionate liability of such refund.

Approved February 11, 1947.

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## CHAPTER 335

S. B. No. 120—(Brant)

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### ESTATE TAX—GROSS ESTATE OF RESIDENT DECEDENT

#### AN ACT

To amend and re-enact Section 57-3702 of the North Dakota Revised Code of 1943, relating to gross estate of resident decedent, including insurance carried by decedent, repealing Chapter 303 of the 1945 Session Laws.

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

§ 1. AMENDMENT.] That Section 57-3702 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

57-3702. GROSS ESTATE OF RESIDENT DECEDENT.] That the value of the gross estate of a resident decedent shall be determined by including the following property:

1. All real property within this State;
2. All tangible personal property, except that which has an actual situs without this State;
3. All intangible personal property wherever located;

4. The net proceeds of all life insurance carried by the decedent at the time of his death in excess of \$25,000,00, whether made payable to his estate, the widow, heirs, individuals, or trusts.

§ 2. REPEAL.] That all acts or parts of acts in conflict herewith are hereby repealed and specifically repealing Chapter 303 of the 1945 Session Laws relating to the same subject matter.

Approved March 6, 1947.

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## CHAPTER 336

S. B. No. 122—(Lynch)

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### STATE INCOME TAX LAW DEFINITIONS— 'CAPITAL ASSETS'— 'DATE EFFECTIVE'

#### AN ACT

To amend and reenact Section 4 of Chapter 306 of the 1945 Session Laws relating to definitions under the State Income Tax Law and particularly capital assets, and date effective.

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

§ 1. AMENDMENT.] That Section 4 of Chapter 306 of the 1945 Session Laws be amended and reenacted to read as follows:

1. CAPITAL ASSETS.] The term "capital assets" means property held by the taxpayer, but does not include stock in trade of the taxpayer or other property of the kind which would properly be included in the 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.

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.

4. DATE OF EFFECT.] In order not to break up the calendar year, this act shall be effective on all income re-

ceived during the year ending December 31, 1947, and on all income thereafter.

Approved February 15, 1947.

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## CHAPTER 337

S. B. No. 261—(Nordhougen, Page, Strelbel and Brant)

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### DEFINITION STATE INCOME TAX LAW—'GROSS INCOME'

#### AN ACT

To amend and reenact Subsection 1 of Section 57-3817 of the North Dakota Revised Code of 1943, Defining Gross income, and Declaring an Emergency.

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

§ 1. AMENDMENT.] That Subsection 1 of Section 57-3817 of the North Dakota Revised Code of 1943, is hereby amended and reenacted to read as follows:

§ 57-3817. GROSS INCOME DEFINED.] The words "gross income" include: 1. Gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property, and from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit; provided, however, that a producer of agricultural products entering into a contract or agreement with any Federal agency, bureau, commission or department, under any law or executive or administrative order regulating the marketing of the product, or providing for any loan or bonus thereon, or with any person, firm or corporation for the sale thereof, may elect to consider the proceeds thereof as gross income during the year in which the contract agreement or sale was entered into, or the year in which any final payment is made thereon;

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

Approved March 21, 1947.

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**CHAPTER 338****H. B. No. 207—(Brickner, Brady)**

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**INCOME TAX RECIPROCITY****AN ACT**

To amend and reenact Subsection 2 of Section 57-3804 of the North Dakota Revised Code of 1943, providing for reciprocity in regard to income tax.

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

§ 1. AMENDMENT.] That Subsection 2 of Section 57-3804 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2. The compensation received for services performed within this state by an individual who resides and has his place of abode and place to which he customarily returns at least once a month in another state, shall be excluded from gross income to the extent such compensation is subject to an income tax imposed by the state of his residence; provided that such state allows a similar exclusion of compensation received by residents of North Dakota for services performed therein, or a credit against the tax imposed on the income of residents of this state substantially similar in effect. Compensation received by residents of this state for services performed without this state shall be excluded from gross income to the extent that such compensation is subject to an income tax imposed by the state in which such services are performed; or a credit against the tax imposed on the income of residents of this state substantially similar in effect.

Approved March 7, 1947.

**CHAPTER 339**

H. B. No. 107—(Smart, Lindberg, Lawson, Mollet, Moerke and Bubel)

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**DUTY OF INDIVIDUALS TO MAKE INCOME TAX RETURN****AN ACT**

To amend and reenact Subsection 1 of Section 57-3831 of the North Dakota Revised Code of 1943, relating to duty of individuals to make return.

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

§ 1. AMENEDMENT.] That Subsection 1 of Section 57-3831 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. Each individual subject to taxation under the provisions of this chapter, having a net income during the income year of five hundred dollars or over, if single, or if married and not living with husband or wife, or having a net income for the fiscal year of fifteen hundred dollars or over, if married and living with husband or wife, and every individual having a gross income during the income year of five thousand dollars or more, regardless of the amount of his net income, shall make a return, which shall contain or be verified by a written declaration that it is made under the penalties of perjury, stating specifically the items of his gross income and the deductions and exemptions allowed by this chapter and claimed by him.

Approved March 3, 1947.

**CHAPTER 340**

H. B. No. 311—(Haugen and Bagge)

**MINERAL RIGHTS PRIVILEGE TAX****AN ACT**

Imposing a privilege tax upon the right to mineral rights in real property when severed from the surface right therein by reservation in deeds conveying the surface rights without developing them by mining operations; providing for the levy and collection thereof, providing for the distribution thereof; and declaring an emergency.

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

§ 1. PRIVILEGE TAX IMPOSED.] For the privilege of holding mineral rights in real property when severed from the surface rights therein by reservations in deeds conveying such surface rights without development thereof by mining operations, there is hereby imposed annually an excise tax of three cents per acre measured by the number of acres in the tract conveyed or in the rights reserved, in case such reservation in a reservation of mineral rights in or underlying a less acreage, in which case the lesser number of acres shall determine the tax.

When such mineral rights are developed by mining operations, such excise tax shall cease. This excise tax shall not apply to mineral leases held for development purposes.

§ 2. LEVY AND COLLECTION.] The Register of Deeds shall furnish the County Auditor with such information as is contained in his office and as will enable said Auditor to prepare a list setting forth the mineral rights as described in Section 1 of this Act, together with the name and address of the holder of such mineral right when severed from the surface right. The County Auditor shall place such mineral reservations upon the tax rolls of his county and shall levy the tax hereby imposed against the owner of such mineral reservations as may appear from said records. Such tax so levied and shown by the tax rolls shall be collected by the county treasurer as property ad valorem taxes are collected. Such tax shall be subject to a lien upon the mineral reservation only as ad valorem taxes upon the surface rights are subject to a lien, and such lien shall be enforced in like manner as ad valorem tax liens are enforced.

§ 3. DISTRIBUTION OF TAX.] Each county treasurer shall apportion such tax when collected to the school district and the township in which the mineral reservation lies, in the

ratio which the tax levy of said school district and township have to the total levies of both the school district and township.

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

Approved March 22, 1947.

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## CHAPTER 341

H. B. No. 223—(Bubel and Fitch)

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### DESTRUCTION CERTAIN OLD GASOLINE TAX RECORDS

#### AN ACT

Providing for the destruction by the state auditor of applications for license to purchase tax exempt gasoline and receipts for the purchase of tax exempt gasoline more than six years old.

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

§ 1. Whenever necessary to obtain needed vault space, the state auditor may destroy the following records, more than six years old, to-wit:

(a) Applications for license to purchase tax exempt motor fuel filed in the office of state auditor.

(b) Report by licensee as to amount of exempt motor fuel purchased and dealers' receipts filed with the state auditor by the licensee.

(c) Receipts for sale of tax exempt motor fuel filed by importing dealers in lieu of the payment by such dealer of the motor fuel tax.

Approved March 10, 1947.

**CHAPTER 342**

H. B. No. 105

(Lindberg, Haugen, Lawson, Mollet, Moerke, Bubel,  
Dalzell and Einarson)**REFUND CLAIMS MOTOR VEHICLE FUEL TAX****AN ACT**

To amend and reenact Section 2 of the initiated measure approved November 4, 1946 relating to claims for refund on motor vehicle fuel tax and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2 of the motor vehicle fuel tax initiated measure be amended and reenacted to read as follows:

2. Such claim shall be in a form furnished by the state auditor and shall have a written declaration by the claimant that it is made under the penalties of perjury. It shall have attached thereto the original invoice or invoices showing the purchase of the motor vehicle fuel on which a refund is claimed, shall state the name of the person from whom the motor vehicle fuel was purchased, the date of purchase, the total amount of such motor vehicle fuel, that the purchase price thereof has been paid and that in said price was included the motor vehicle fuel tax payable to the State of North Dakota under Chapter 57-41, Revised Code of North Dakota for 1943, and under the initiated measure approved November 7, 1944, relating to the tax on motor vehicle fuels, that such motor vehicle fuel was used by the claimant otherwise than in motor vehicles operated or intended to be operated upon the public highways of this state, the manner in which said motor vehicle fuel was used, the equipment in which such motor vehicle fuel was used and such other information as the state auditor shall require. In the event the original invoice or invoices are lost, the claimant may furnish, in lieu thereof, duplicate invoices together with a separate affidavit on forms prescribed by the state auditor.

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

Approved March 15, 1947.

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**CHAPTER 343****H. B. No. 224—(Bubel and Fitch)**

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**RULES AND REGULATIONS MOTOR VEHICLE FUEL TAX AND MOTOR  
FUEL USE TAX****AN ACT**

Authorizing the state auditor to formulate rules and regulations relating to motor vehicle fuel tax and motor fuel use tax, and declaring an emergency.

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

§ 1. STATE AUDITOR MAY FORMULATE RULES.] The state auditor may formulate such reasonable rules and regulations as he may deem necessary for the administration and enforcement of Chapter 57-41 of the North Dakota Revised Code of 1943 as amended, relating to motor vehicle fuel tax, and Chapter 57-42 of the North Dakota Revised Code of 1943 as amended, relating to motor fuel use tax.

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

Approved March 15, 1947.

## CHAPTER 344

H. B. No. 193

(McInnes, Arndt, Einarson, Langley, Bagge, Walster, Johnson (Cass), Collette, Johnson (Griggs), Fleck, Holand, Severson and Grenier)

## RETAIL 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.

*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 indicates a different meaning:

1. "Person" includes any individual, firm, partnership, 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;
2. "Sale" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration;
3. "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 communicating 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 lists, 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 component 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 purpose of this Act be considered as a sale of tangible personal property for a purpose other than for processing;

4. "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;
5. "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;
6. "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 or 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 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 Act, as has actu-

ally been received in cash by the retailer during each quarterly period as defined herein;

7. "Relief agency" means the state, any county, city and county, city or district thereof, of any agency engaged in actual relief work;
8. "Commissioner" means the tax commissioner of the State of North Dakota; and
9. "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, 1947 and ending the 30th day of June, 1949 a tax of two per cent 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:

1. 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;
2. The gross receipts from the sales, furnishing or service of transportation service;
3. 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 purchaser and his family;

4. 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;
5. The gross receipts from the sale by any school board of this state of books and school supplies to regularly enrolled students at costs; and
6. 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.] 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. Such refunds may be obtained only in the following amount and in the manner and only under the following conditions.

1. 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;
2. 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; and

3. 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 Act, based upon such computation of gross receipts.

If the commissioner is satisfied that the foregoing 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 the 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.] No retailer shall 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.] Every retailer required to make a report and pay any tax under this Act, shall preserve such records of the gross proceeds of sale as the commissioner may require and every retailer shall preserve for a period of two years all invoices and other records of goods, wares, or merchandise purchased for resale. All such books, invoices, and other records shall be open to examination at any time by the commissioner or any of his duly authorized agents.

§ 9. RETURN OF GROSS RECEIPTS.]

1. On or before the twentieth day of the month following the close of the first quarterly period as defined in the following section, and on or before the twentieth day of the month following each subsequent quarterly period of three months, the retailer shall 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. The commissioner upon request by any retailer and a proper showing of the necessity therefor, may grant unto such retailer an extension of time not to exceed thirty 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 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 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 under the provisions of this Act shall be due and payable in quarterly installments on or before the twentieth day of the month next succeeding each quarterly period, the first of such period being the period commencing with July 1, 1947;
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, 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, may 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 penalties due or which may become due from such person. In lieu of such bond, securities approved by the commissioner in such amounts 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 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.

§ 11. LIEN OF TAX; COLLECTION; ACTION AUTHORIZED.] Whenever any taxpayer liable to pay a tax 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 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; and
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 forthwith shall index said notice in said index book and forthwith shall 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

acommissioner forthwith shall 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, upon the request of the tax commissioner, shall bring an action at law or in equity, as the facts may justify, without bond to enforce payment of any taxes and any 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.

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.

## § 12. PERMITS; APPLICATION AND FEE FOR.]

1. No person shall 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 for each permit, and the applicant shall 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 regulations 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 also shall have the power to restore licenses after such revocation;
6. The commissioner shall charge a fee of one dollar for the issuance of a permit to a retailer whose permit has been previously revoked;
7. All permits in effect at the time this Act takes effect are hereby continued and shall remain in full force and effect unless revoked as herein provided.

§ 13. FAILURE TO FILE RETURN; INCORRECT RETURN.]  
If a return required by this Act 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 other factors. The commissioner shall give notice of such determination to the person liable for the tax. Such determination shall fix the tax finally and irrevocably unless the person against whom it is assessed, within thirty days after the giving of notice of such determination, shall apply to the commissioner for a hear-

ing 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.

§ 14. 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 be filed with the return thereon 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, 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.

§ 15. 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 provisions of this Act, 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 Act by the giving of notice shall commence to run from the date of registration and posting of such notice;

2. The provisions of the laws of this state 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.

§. 16. PENALTIES, OFFENSES.]

1. Any person failing to file a return or corrected return or to pay any tax within the time required by this Act, shall be subject to a penalty of five per cent of the amount of tax due, plus one per cent 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. 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 days after the effective date of this Act, as provided in Section 12 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 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, for each such offense, shall be fined not to exceed five hundred dollars or shall be imprisoned in the county jail not

exceeding one year, or shall 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 shall be punished by imprisonment in the county jail not exceeding six months or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment, in the discretion of the court. This criminal liability shall be cumulative and in addition to the civil liability for penalties hereinbefore provided.

§ 17.] The tax commissioner is hereby charged with the administration of this Act and the taxes imposed thereby. Such commissioner may 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.

§ 18.] All fees, taxes, interest, and penalties imposed and collected under this Act shall 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.

#### § 19. 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 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 ad-

minister 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 warrants 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.

§ 20.]

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 may remove such agents, auditors, clerks and employees so appointed by him. 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. No additional compensation shall be paid to said treasurer by reason thereof.

§ 21. INFORMATION DEEMED CONFIDENTIAL.] 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. The commissioner may authorize examination of such returns by other state officers, or, if a reciprocal arrangement exists, by tax officers of another state, or the federal government. Any person violating the provisions of this section shall be guilty of a misdemeanor and punishable by fine not to exceed one thousand dollars.

§ 22. CORRECTION OF ERROR.] 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.

§ 23.] Wherever by any provisions 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.

§ 24. 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. The net amount of moneys remaining in said "retail sales tax fund" shall be a special trust fund to be used and disbursed solely for the following purposes:

1. That seven-twelfths 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. The remaining five-twelfths 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 share of said trust fund;
2. The state treasurer and state auditor shall 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.

§ 25.] All monies now in the retail sales tax fund created by Chapter 308 of the Session Laws of 1945, 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.

§ 26. SAVINGS CLAUSE.] 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.

Approved March 15, 1947.

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**CHAPTER 345**

S. B. No. 133  
(Krenz)

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**USE OF SCHOOL DISTRICT BUILDING FUNDS****AN ACT**

To amend and reenact subsection 1 of section 57-1517, of the North Dakota Revised Code of 1943, relating to building funds of school districts and the use of the same, and declaring an emergency.

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

§ 1. AMENDMENT.] That Subsection 1 of Section 57-1517 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. All revenues accruing from appropriations or tax levies for a school building fund, together with such amounts as may be realized for building purposes from all other sources, shall be placed in a separate fund known as a school building fund, and shall be deposited and held as the sinking funds of such school district are held. Such funds shall be used solely and exclusively for the purpose of erecting new school buildings, or additions to old school buildings, or major repairs of existing buildings, and shall be paid out by the custodian thereof only upon order of the school board, signed by the president and the clerk of said school district; such order must recite upon its face the purpose for which such payment is made.

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

Approved March 6, 1947.

## CHAPTER 346

## H. B. No. 31

(Langley and Legislative Research Committee at the request of North Dakota Educational Association, State Congress of Parents and Teachers Association, The North Dakota School Officers Association and the Superintendent of Public Instruction)

EXPENDITURE LIMITATION SCHOOL DISTRICT SPECIAL RESERVE  
FUND, ETC.

## AN ACT

To amend and reenact Sections 57-1907 and 57-1908 of the North Dakota Revised Code of 1943 relating to the limitations on the amount drawn from the special reserve fund that may be created by school districts; providing for tax collections to restore such fund and relating to the personal liability of school district officers for such fund.

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

§ 1. AMENDMENT.] That Section 57-1907 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1907. LIMITATION ON AMOUNT DRAWN FROM FUND; TAX COLLECTIONS USED TO RESTORE FUND.] The amount of outstanding, unredeemed vouchers shall never exceed in the aggregate a sum equal to seventy-five per cent of the uncollected taxes for the current and four preceding years which are apportionable to the general fund of such school district. Such vouchers, in the hands of the county treasurer, shall be redeemed from the collections of such uncollected taxes. A tax shall be deemed to have been levied when it has been voted by the school board and certified to the county auditor. Whenever there are unredeemed vouchers in such voucher registry, the county treasurer shall first apply the proceeds of the collections of that portion of any unencumbered uncollected tax which would otherwise be apportionable to the general fund of the school district to the redemption of such vouchers in the order listed in such register, and shall deposit such sum in the special reserve fund and mark the voucher and the entry in the register as "redeemed," and thereupon shall return to the governing body of the school district such voucher, marked "redeemed," and signed by the county treasurer. Any balance of collections apportionable to the general fund of the school district remaining after redemption of all such vouchers, shall be paid to the school district in the manner now provided by law.

§ 2. AMENDMENT.] That Section 57-1908 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1908. OFFICERS PERSONALLY LIABLE; WHEN.] Any school district official knowingly and willfully causing to be issued a voucher in excess of the limit provided in Section 57-1907, or any county treasurer honoring such a voucher, or transferring from such special reserve fund moneys in excess of seventy-five per cent of the unencumbered uncollected taxes for the current and four preceding years apportionable to the general fund of the school district, or paying over to the school district any such funds without the redemption of any outstanding vouchers, shall be personally liable for the sum involved.

Approved March 1, 1947.

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## CHAPTER 347

S. B. No. 52

(Brant for Legislative Research Committee at request of Division of Aeronautics)

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### CITY TAX LEVY FOR AIRPORTS

#### 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. TAX LEVY FOR AIRPORT PURPOSES.] In cities supporting airports for which no levy has been made by a park board or other taxing districts within the corporate limits of such city, 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 11, 1947.

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**CHAPTER 348****H. B. No. 290****(Benno, Brickner, Fleck and Klefstad)**

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**TAX LEVY FOR AIRPORT PURPOSES IN VILLAGES AND PARK DISTRICTS****AN ACT**

To permit a levy of four mills for airport purposes by villages, and park districts in excess of all other levies permitted by law.

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

§ 1.] In villages and park districts supporting airports, a levy in addition to all other levies permitted by law but not to exceed four mills on the net taxable assessed valuation of property in such village, or park district may be made for such purpose; provided, however, that said levy may be made by not more than one of the said political subdivisions in any one taxing district.

Approved March 10, 1947.

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**CHAPTER 349****S. B. No. 209****(Bridston and Morgan)**

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**TAX LEVIES FOR CONSTRUCTION FUNDS IN CITIES AND VILLAGES****AN ACT**

To amend and reenact chapter 313 of the session laws of North Dakota for the year 1945 relating to tax levies for construction funds in cities and villages, and declaring an emergency.

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

§ 1. AMENDMENT.] Chapter 313 of the session laws of North Dakota for the year 1945 is hereby amended and reenacted to read as follows:

§ 1. TAX LEVY FOR CONSTRUCTION FUND IN CITIES OR VILLAGES.] The governing body of any city or village may levy taxes annually for a period not to exceed ten successive years for an 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 per cent of the electors voting upon the question at a regular or special election in any city or village which, at the time of making the annual levy, has not 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 waterworks systems, sewage systems, public buildings, or any other public improvements for which cities or villages are authorized by law to pay for from general tax levies, and the governing body of any city or village, when submitting to the electors of the city or village, the question of authorizing the aforesaid tax levy, shall specify the purposes for which said construction fund is to be used. The governing body of such city or village may create such building fund by appropriating and setting up in its budget, for such an amount not in excess of twenty per cent 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 a separate fund known as a city or village construction fund, and shall be deposited and held as the sinking funds of such cities or 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 governing body of such city or village, signed by the mayor, president board of city commissioners or chairman of the board of village trustees and the city auditor or clerk of said city or 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 city or 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 city or village upon the order of the governing body of such city or village;

3. Upon the 1st day of June of each year, the custodian of any city or village construction fund, shall pay into the general fund of such city or 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 city or 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 city or 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 March 20, 1947.

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## CHAPTER 350

S. B. No. 243

(Nelson of McKenzie, Schrock and Dahlen)

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### DISCRETIONARY TAX LEVY "FARM TO MARKET ROAD'S FUND" 1947, 1948 AND 1949

#### AN ACT

Providing for a discretionary tax levy for the years 1947, 1948, and 1949 to match federal funds available for secondary and farm to market roads, such levy to be in addition to the maximum levy limitation, creating a "farm to market road's fund" and declaring an emergency.

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

§ 1.] The board of county commissioners may call an election of the voters of the county to vote upon the question of levying a tax of not to exceed five mills upon the valuation of all taxable property within the county, for the purpose of matching federal funds available for federal-aid, secondary-aid and farm to market roads program under Public Law 521, 78th congress of the United States. Such levy shall be ap-

proved by a majority of the electors voting at such election. Such levy shall be over and above the maximum levy authorized by law.

§ 2.] All moneys received from the levy provided for in section 1 of this Act shall be placed in a separate fund to be known as "farm to market road's fund." Moneys from this fund shall be used only to match the federal-aid, secondary-aid and farm to market road program.

§ 3.] The additional levy that may be authorized under the provisions of this Act shall be for the fiscal years 1947, 1948, and 1949 only.

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

Approved March 21, 1947.

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## CHAPTER 351

S. B. No. 150—(Schrock and Troxel)

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### TAX LEVY FOR BUILDING FUND IN SCHOOL DISTRICTS

#### AN ACT

To amend and reenact Section 57-1516 of the North Dakota Revised Code of 1943 as amended and reenacted by Chapter 311 of the Session Laws of North Dakota for the year 1945, 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 appropriating 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. AMENDMENT.] That Section 57-1516 of the North Dakota Revised Code of 1943 as amended and reenacted by Chapter 311 of the Session Laws of North Dakota for the year 1945 is hereby amended and reenacted 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 ten 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 ques-

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

Approved March 15, 1947.

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## CHAPTER 352

H. B. No. 103—(Leet, Skaar and Stormon)

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### TOWNSHIP TAX LEVIES

#### AN ACT

To amend and reenact Section 57-1519 of the North Dakota Revised Code of 1943, relating to township tax levies and declaring an emergency.

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

§ 1. **AMENDMENT.]** That Section 57-1519 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**57-1519. TOWNSHIP TAX LEVIES.]** The electors of each township shall have power at the annual meeting to vote to raise such sums of money for the repair and construction of roads and bridges, and for all township charges and necessary expenses as they deem expedient, within the limitations prescribed in Section 57-1520, and on the fourth Tuesday in March, or within ten days thereafter, of each year, the board of supervisors of each civil township shall levy annual taxes for the ensuing year, as voted at the annual township meeting, and the tax levy shall be limited by the amount voted to be raised at such annual meeting. The electors, at such annual meeting, may direct the expenditure of the road tax or a part of it, in an adjoining township under the joint direction of the boards of supervisors of the townships interested and furnishing such funds.

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

Approved March 3, 1947.

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## CHAPTER 353

H. B. No. 234

(Homelvig, Hogoboom, Roen, Severson, Anderson (McKenzie), and Hegge)

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### TAX LEVY FOR SURFACING TOWNSHIP HIGHWAYS

#### AN ACT

Authorizing the electors of organized townships in this state at their annual meeting by a majority vote to provide for a levy, not to exceed eight mills, upon the taxable property within the township, to be used for the surfacing of highways within the township and the fund created thereby to remain as a revolving fund for such highway purposes and to be expended under the direction of the township supervisors; authorizing county commissioners to make such levy for such purpose in unorganized townships within the state; and declaring an emergency.

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

§ 1. The electors of each organized township within this state may at their annual meeting by a majority vote authorize a levy, not to exceed eight mills, upon the valuation of all taxable property within the township, the proceeds of which shall be used for the surfacing of highways within such townships.

Provided, however, that the county commissioners may authorize a levy not to exceed eight mills upon all taxable property within such unorganized townships, to be used for the surfacing of highways within said unorganized townships, as provided herein, under the direction of the county commissioners.

§ 2. The fund so raised by such levy in organized or unorganized townships shall constitute a revolving fund, to be used for the purposes as hereinbefore provided.

§ 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 10, 1947.

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**CHAPTER 354****S. B. No. 165—(Lynch and Brant)**

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**TAX LEVIES IN UNORGANIZED TOWNSHIPS****AN ACT**

To amend and reenact section 57-1521 of the North Dakota Revised Code of 1943, relating to tax levies in unorganized townships and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 57-1521 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1521. TAX LEVIES IN UNORGANIZED TOWNSHIPS.] The board of county commissioners shall have the same jurisdiction in an unorganized township as the board of township supervisors has in an organized township. Such board may levy taxes in an unorganized township for road and bridge purposes and shall make such levy on the fourth Tuesday in July in each year, or within ten days thereafter. Such levy shall have no relation to nor effect upon the county taxes for any purpose levied by the board of county commissioners.

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

Approved March 20, 1947.

**CHAPTER 355**

S., B. No. 90—(Brant)

**TAX LEVY LIMITATIONS IN CITIES****AN ACT**

To amend and reenact Section 57-1508 of the North Dakota Revised Code of 1943, relating to tax levy limitations in cities and declaring an emergency.

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

§ 1. **AMENDMENT.]** That Section 57-1508 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**57-1508. TAX LEVY LIMITATIONS IN CITIES.]** The aggregate amount levied for general city purposes shall not exceed such an amount as will be produced by a levy of twenty-one mills on the net taxable assessed valuation of property in the city, provided, that in cities with a population over five thousand they be permitted to levy an additional one-half of one mill for each additional one thousand population in excess of five thousand and provided further that the maximum levy for general city purposes shall not exceed twenty-eight mills, and that in a city supporting a band or public library an additional levy, not to exceed three mills on the net taxable assessed valuation of property in such city, may be made for these purposes.

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

Approved March 15, 1947.

## CHAPTER 356

S. B. No. 78—(Brant)

## TAX LEVY LIMITATIONS IN COUNTIES

## AN ACT

To amend and reenact Section 57-1506 of the North Dakota Revised Code 1943, relating to the limitations on county tax levies, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 57-1506 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1506. LIMITATIONS ON COUNTY TAX LEVIES.] County tax levies shall be limited as follows:

1. The board of county commissioners shall not levy any taxes for general or special county purposes which will exceed the amount produced by a levy of eighteen mills on the dollar of the net taxable valuation of the county;
2. The board of county commissioners annually shall levy taxes sufficient to meet the obligations of the county for the maintenance of its patients in the charitable institutions of the state, but such taxes shall not exceed the amount produced by a levy rate of one and one quarter mills on the dollar of net taxable valuation. Such levy shall be within the amount produced by the eighteen mill rate, and shall be a paramount charge, to the exclusion of all other budget items, upon the necessary part of the total tax levies; provided that any funds now on hand or hereinafter levied for the purpose of this sub-section shall not, in the discretion of the board of county commissioners, be included in the budget of the county.
3. The eighteen mill limitation shall apply to all tax levies which the county is authorized to levy for general and special county purposes, including taxes levied for road and bridge purposes. Any unexpended balance in the county road fund at the end of the fiscal year may be transferred to a special road fund, except that such special fund shall never exceed the amount a ten mill levy on the assessed valuation of the county would yield, and the balance in said fund

shall not be considered in determining the budget or the amount that may be levied. Such mill limitation shall not apply:

- a. To tax levies made for the purpose of paying the principal and interest on any obligations of the county evidenced by the issuance of bonds:
- b. To tax levies made to pay the county tuition provided for by Section 57-1524;
- c. To taxes levied for the purpose of combating the grasshopper pest, pursuant to Section 4-1501;
- d. To taxes levied for the purpose of combating gophers pursuant to Section 4-1602;
- e. To taxes levied pursuant to any statute which expressly provides that the taxes authorized to be levied therein shall not be subject to the eighteen mill limitations for general and special county purposes; or
- f. To the tax levied pursuant to the provisions of Chapter 42 of the title Education, for support and maintenance of county agricultural and training schools, up to a maximum of two and one quarter mills on the assessed value in the county for such purpose. Nothing herein contained shall be construed to prevent the appropriation of money from the county general fund for the support and maintenance of county agricultural and training schools.

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

Approved March 15, 1947.

**CHAPTER 357****H. B. No. 123****(Smart, Baker, Benno, Brickner, Culver, Fleck, Haugland and Sticka)****TAX LEVY LIMITATIONS IN PARK DISTRICTS****AN ACT**

To amend and reenact subsection 1 of section 57-1512 of the North Dakota Revised Code of 1943 as amended and reenacted by section 1 of chapter 301 of the Session Laws of North Dakota for the year 1945; relating to levy for park district purposes; and declaring an emergency.

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

§ 1. AMENDMENT.] That Subsection 1 of Section 57-1512 of the North Dakota Revised Code of 1943 as amended and reenacted by Section 1 of Chapter 301 of the Session Laws of North Dakota for the year 1945 is hereby amended and reenacted 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, and levies to pay the principal and interest on special assessments assessed and levied against park board properties by other municipalities, shall not exceed such amount as will be produced by a levy of four mills on the dollar of the net taxable assessed valuation of the district for the current year.

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

Approved March 3, 1947.

**CHAPTER 358****H. B. No. 121****(Smart, Baker, Benno, Brickner, Culver, Fleck, Haugland and Sticka)****EXEMPTION TAX LEVY LIMITATION FOR SPECIAL ASSESSMENTS  
BY POLITICAL SUBDIVISIONS****AN ACT**

To exempt from tax levy limitations county, city, village, school district, park district, and township tax levies for the purpose of paying special assessments against property owned by such political subdivisions; and declaring an emergency.

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

§ 1. **POLITICAL SUBDIVISION TAX LEVIES FOR PAYMENT OF SPECIAL ASSESSMENTS EXEMPT FROM LEVY LIMITATIONS.]** No tax levy limitations provided by any statute of this state shall apply to tax levies heretofore or hereafter made by any county, city, village, school district, park district, or township for the purpose of paying any special assessments made in accordance with the provisions of Title 40, North Dakota Revised Code of 1943, against property owned by such county, city, village, school district, park district, or township.

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

Approved March 3, 1947.

## CHAPTER 359

H. B. No. 26

(Langley and Legislative Research Committee at the request of North Dakota Educational Association, State Congress of Parents and Teachers Association, The North Dakota School Officers Association and the Superintendent of Public Instruction)

## TAX LEVY LIMITATIONS IN SCHOOL DISTRICTS

## AN ACT

To amend and reenact Section 57-1514 of the North Dakota Revised Code of 1943 fixing the tax levy limitations in school districts.

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

§ 1. AMENDMENT.] That Section 57-1514 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1514. TAX LEVY LIMITATIONS IN SCHOOL DISTRICTS.] The aggregate amount levied by any school district, whether common, independent, or special, shall not exceed such amount as will be produced by a levy of twenty-four mills on the dollar of the net assessed valuation of the district, except that:

1. Any school district giving two years of standard high school work may levy taxes not to exceed thirty mills;
2. Any school district giving three years of standard high school work may levy taxes not to exceed thirty-three mills;
3. Any school district giving four years of standard high school work may levy taxes not to exceed thirty-six mills; and
4. Any school district maintaining a consolidated elementary school may levy taxes not to exceed twenty-seven mills on the dollar of its net taxable valuation, except that where high school work is offered by such school the limitations on the regular high school levy shall apply.

Approved March 14, 1947.

**CHAPTER 360**

S. B. No. 98—(Brant)

**TAX LEVY LIMITATIONS IN TOWNSHIPS; CREATING SPECIAL ROAD FUND, ETC.****AN ACT**

To amend and reenact Section 57-1520 of the North Dakota Revised Code of 1943, relating to the tax levy limitations in townships, creating a special road fund, purpose of, funds not to be considered in determining budget, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 57-1520 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1520. TAX LEVY LIMITATIONS IN TOWNSHIPS.] The total amount of the annual tax levy in a civil township, exclusive of levies to pay interest on any bonded debt and to provide a sinking fund to pay and discharge the principal thereof at maturity, shall not exceed such amount as will be produced by a levy of ten mills on the dollar of the net taxable assessed valuation thereof.

§ 2. TOWNSHIP SUPERVISORS MAY TRANSFER FUNDS INTO SPECIAL ROAD FUND; LIMITATIONS.] The board of supervisors, at the time of the annual township meeting, upon resolution, may transfer or set aside a part or all of any funds into a special road fund which fund shall be separate and distinct from all other funds. Such special road fund shall not exceed the sum of one thousand dollars for any one congressional township.

§ 3: USE OF SPECIAL ROAD FUND.] The special road fund provided for in Section 2 of this Act may be expended, at the option of the board of supervisors, for the purpose of road construction, graveling or surfacing.

§ 4. FUNDS NOT CONSIDERED IN DETERMINING BUDGET.] The special road fund that may be created under the provisions of this Act shall not be considered in determining the budget of the amount to be levied for each township fiscal year, for normal tax purposes, but shall be shown in such budget as a special road fund and shall not be deducted therefrom as otherwise provided by law.

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

Approved March 10, 1947.

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## CHAPTER 361

S. B. No. 79—(Brant)

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### TAX LEVY LIMITATIONS IN UNORGANIZED TOWNSHIPS

#### AN ACT

To amend and reenact Section 57-1522 of the North Dakota Revised Code of 1943 as amended and reenacted by Chapter 304 of the Session Laws of North Dakota for the year 1945, relating to tax levy limitations in unorganized townships, providing that the board of county commissioners may transfer unexpended balances in the road and bridge fund in any unorganized township, limitations thereon, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 57-1522 of the North Dakota Revised Code of 1943 as amended and reenacted by Chapter 304 of the Session Laws of North Dakota for the year 1945 is hereby amended and reenacted 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 six 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.

§ 2. BOARD OF COUNTY COMMISSIONERS MAY TRANSFER UNEXPENDED BALANCE IN ROAD AND BRIDGE FUND IN UNORGANIZED TOWNSHIPS; LIMITATIONS.] The Board of County Commissioners, by resolution, may transfer any unexpended balance in the road and bridge fund in any unorganized township to a special road and bridge fund to the credit of such unorganized township. Such special road and bridge fund shall not exceed a sum which would be produced by a levy of six mills on the net taxable valuation of any unorganized town-

ship. Such special road and bridge fund shall not be taken into consideration in determining the budget for the amount to be levied for road and bridge purposes in an unorganized township for the current fiscal year.

§ 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 15, 1947.

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## CHAPTER 362

S. B. No. 95—(Brant)

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### TAX LEVY LIMITATIONS IN VILLAGES

#### AN ACT

To amend and reenact Section 57-1509 of the North Dakota Revised Code of 1943, relating to the tax levy limitations in villages and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 57-1509 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1509. TAX LEVY LIMITATIONS IN VILLAGES.] The aggregate amount levied for all taxes which any village is authorized to levy, except for those purposes specified in Section 57-1510, shall not exceed such an amount as will be produced by a levy of fifteen mills on the net taxable assessed valuation of property in the village.

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

Approved March 15, 1947.

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**CHAPTER 363**

H. B. No. 283  
(Thompson and Woollitz)

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**REPEAL POSTING TOWNSHIP BOARD OF EQUALIZATION NOTICE  
AN ACT**

To repeal section 57-0903 of the North Dakota Revised Code of 1943, relating to the posting of notice of the township board of equalization.

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

§ 1. REPEAL.] That Section 57-0903 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 13, 1947

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**TOWNSHIPS**

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**CHAPTER 364**

S. B. No. 144—(Troxel)

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**ANNUAL TOWNSHIP MEETING—TIME, PLACE, NOTICE**

**AN ACT**

To amend and reenact section 58-0401 of the North Dakota Revised Code of 1943, relating to place of township meetings.

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

§ 1. AMENDMENT.] That Section 58-0401 of the North Dakota Revised Code of 1943 be hereby amended and reenacted to read as follows:

58-0401. ANNUAL TOWNSHIP MEETING; WHEN HELD: CHANGE IN MEETING PLACE; NOTICE.] The electors of each township annually shall assemble and hold a township meeting on the third Tuesday in March at such place in the township as the electors thereof at their annual township meetings from time to time shall designate. Notice of the time