

# TAXATION

## CHAPTER 584

SENATE BILL NO. 2256  
 (Committee on Finance and Taxation)  
 (At the request of the Tax Department)

### SALES AND USE TAX COLLECTION AGREEMENTS

AN ACT to amend and reenact section 57-01-02.1 of the North Dakota Century Code, relating to sales and use tax collection agreements with home rule cities.

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

SECTION 1. AMENDMENT.) Section 57-01-02.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-01-02.1. SALES AND USE TAX COLLECTION AGREEMENTS WITH HOME RULE CITIES.)

1. The governing body of any incorporated city that has adopted the home rule provisions of chapter 40-05.1 and the tax commissioner are hereby authorized and empowered to enter into contractual agreements whereby the tax commissioner shall have authority to collect any sales and use taxes assessed by such incorporated city ~~and--remit--the--same--to--such incorporated-city.~~
2. It shall be the duty of the tax commissioner to deposit with the state treasurer all money collected by him under this section and to accompany each remittance with a certificate showing the city for which it was collected. The state treasurer, quarterly, shall pay to the city treasurers of the several cities the money to which they are entitled under this section.
3. ~~Such agreement~~ The agreements entered into under this section may also provide for an agreed amount to be allowed the tax commissioner for services rendered in connection with such collections. Any sums collected for services rendered shall be paid to the state treasurer for deposit in the general fund.

Approved March 15, 1979

## CHAPTER 585

SENATE BILL NO. 2262  
(Committee on Finance and Taxation)  
(At the request of the Tax Department)

### APPLICATION OF TAX REFUNDS AND CREDITS

AN ACT to create and enact a new section to chapter 57-01 of the North Dakota Century Code, relating to the application of refunds and credits; and providing an effective date.

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

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

APPLICATION OF REFUNDS AND CREDITS.) All refunds and credits for overpayment to any taxpayer may be applied to the payment of any taxpayer's delinquent or unpaid taxes, including penalties and interest, or delayed until the taxpayer's delinquent returns have been filed and all taxes due thereon, including penalties and interest, have been paid. This provision shall be applicable as to all taxes that are administered and collected by the tax commissioner and shall be effective for all refunds and credits determined payable or due a taxpayer after December 31, 1978.

Approved March 8, 1979

## CHAPTER 586

HOUSE BILL NO. 1302  
(Representatives Weber, Nicholas)  
(Senator Shablow)

## DEFINITION OF TRUE AND FULL VALUE

AN ACT to amend and reenact subsection 4 of section 57-02-01 of the North Dakota Century Code, relating to the definition of "true and full value".

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

SECTION 1. AMENDMENT.) Subsection 4 of section 57-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "True and full value" means the ~~usual-selling-price-at-the place-where-the-property-to-which-the-term-is-applied shall-be-at-the-time-of-the-assessment, that-being-the price-at-which-it-could-be-obtained-at-private-sale, and net-at-a-foreed-public-auction-sale. In-arriving-at-the true-and-full-value,~~ consideration may be given to value determined by considering the earning or productive capacity, if any, the market value, if any, and all other matters that affect the actual value of the property to be assessed. This shall include, for purposes of arriving at the true and full value of property used for agricultural purposes, farm rentals, soil capability, soil productivity, and soils analysis.

Approved April 7, 1979

## CHAPTER 587

HOUSE BILL NO. 1442  
(Representatives Tweten, A. Hausauer, Wessman)  
(Senators Nelson, Tallackson, Thane)

### DEFINITION OF REAL PROPERTY FOR TAX PURPOSES

AN ACT to amend and reenact section 57-02-04 of the North Dakota Century Code, relating to the definition of real property; and providing an effective date.

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

SECTION 1. AMENDMENT.) Section 57-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-04. "REAL PROPERTY" DEFINED.) Real property, for the purpose of taxation, includes:

1. The land itself, whether laid out in town lots or otherwise, and improvements to the land, such as ditching, surfacing, and leveling, except plowing and trees, and all rights and privileges thereto belonging or in anywise appertaining, and all mines, minerals, and quarries in and under the same and shall expressly include all such improvements made by persons to lands held by them under the laws of the United States, all such improvements to land the title to which still is vested in any railroad company and which is not used exclusively for railroad purposes, and improvements to land belonging to any other corporation whose property is not subject to the same mode and rule of taxation as other property.
2. All structures and buildings, including systems for the heating, air conditioning, ventilating, sanitation, lighting, and plumbing of such structures and buildings, and all rights and privileges thereto belonging or in anywise appertaining, but shall not include items which pertain to the use of such structures and buildings, such as machinery or equipment used for trade or manufacture which are not constructed as an integral part of and are not essential for the support of such structures or buildings, and which are removable without materially

limiting or restricting the use of such structures or buildings.

3. Machinery and equipment, but not including small tools and office equipment, used or intended for use in any process of refining products from:

a. ~~Oil~~ oil or gas extracted from the earth, but not including such equipment or appurtenances located on leased oil and gas production sites, ~~or~~

b. ~~Sugar-beets.~~

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for the listing and assessment of property after January 1, 1980, and the levy of taxes thereon for the year 1980 and thereafter.

Approved March 13, 1979

## CHAPTER 588

SENATE BILL NO. 2299  
(Senators Erdman, Nelson, Redlin)  
(Representatives Peterson, Olson, Peltier)

### WATER ENTITY PROPERTY TAX EXEMPTION

AN ACT to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, providing a property tax exemption for certain associations and corporations furnishing potable water.

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

SECTION 1.) A new subsection to section 57-02-08 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

All fixtures, buildings, and improvements owned by any cooperative or nonprofit corporation organized under the laws of this state and used by it to furnish potable water to its members and customers for uses other than the irrigation of agricultural land.

Approved March 15, 1979

## CHAPTER 589

SENATE BILL NO. 2258  
(Committee on Finance and Taxation)  
(At the request of the Tax Department)

## MISCELLANEOUS TAX PROVISIONS

AN ACT to create and enact a new section to chapter 57-58 of the North Dakota Century Code, relating to personal property replacement money; to amend and reenact subsection 2 of section 57-02-08.1, sections 57-05-01, 57-13-03, 57-34-02, and 57-34-03 of the North Dakota Century Code, relating to a minimum amount of refund for senior citizens, the assessment date of railroad property, the annual meeting place of the state board of equalization, reports of telephone companies, and the computation of telephone company tax by the tax commissioner.

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

SECTION 1. AMENDMENT.) A new section to chapter 57-58 of the North Dakota Century Code is hereby created and enacted to read as follows:

Notwithstanding any other provisions of this chapter, if a political subdivision has ceased to exist at the time of certification by the tax commissioner, it shall receive no money under the provisions of this chapter.

\* SECTION 2. AMENDMENT.) Subsection 2 of section 57-02-08.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

\* NOTE: Subsection 2 of section 57-02-08.1 was also amended by section 2 of House Bill No. 1385, chapter 595.

burdensome share of his income. For the purpose of this subsection, twenty percent of the annual rent, exclusive of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement, shall be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds four percent of the annual income of a qualified applicant, said applicant shall receive a refund from the state general fund for that amount in excess of four percent of his annual income, but such refund shall not be in excess of one hundred seventy-five dollars. If the calculation for said refund is less than five dollars, a minimum of five dollars shall be sent to the qualifying applicant.

In no case shall a husband and wife who are living together both be entitled to the refund as provided for in this subsection. Each application for refund under this subsection shall be made to the tax commissioner before the first day of June of each year by the person claiming the refund. The tax commissioner shall certify to the state treasurer the amount of the refund due, if any, and the state treasurer shall issue the refund from the state general fund to the applicant. In no case shall this subsection apply to rents or fees paid by a person to a nursing home licensed pursuant to section 23-16-01 if that nursing home has been declared exempt from property taxation.

\* SECTION 3. AMENDMENT.) Section 57-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-05-01. RAILROAD PROPERTY TO BE ASSESSED BY STATE BOARD OF EQUALIZATION.) The state board of equalization, at its annual meeting in August in each year, shall assess at its actual value on the first day of January of that year, the operating property, including franchises, except that if any railroad allows any portion of its railway to be used for any purpose other than the operation of a railroad thereon, such portion of its railway while so used shall be assessed in a manner provided for the assessment of other real property, of each railroad operated in this state, including any electric or other street or interurban railway. To enable said board to make a correct valuation of such property, it shall have access to all reports, estimates, and surveys of a line of railroad on file in the office of the public service commission and shall have power to summon and compel the attendance of witnesses, and to examine such witnesses under oath in any matter relating to the value of such property. In fixing the value of any such railroad, and of the branches and sidetracks thereof, the board shall be governed by the rules prescribed for county and township assessors in valuing other property in this state. The board shall make a record of the value placed by it upon the property of the railroad, including the valuation per mile of main line and of branch lines and sidetracks.

\* NOTE: Section 57-05-01 was also amended by section 10 of House Bill No. 1169, chapter 501.

SECTION 4. AMENDMENT.) Section 57-13-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-13-03. ANNUAL MEETING TO EQUALIZE TAXABLE PROPERTY.) The state board of equalization shall meet annually on the second Tuesday in August at the office of the state tax commissioner or, if deemed advisable by the board because of inadequate space, at such other place on the grounds of the state capitol as may be adequate, and then shall examine and compare the returns of the assessment of taxable property as returned by the several counties in the state, and shall proceed to equalize the same so that all assessments of similar taxable property shall be uniform and equal throughout the state at the full and true value thereof in money or at such percentage of the full and true value as may be required by law.

SECTION 5. AMENDMENT.) Section 57-34-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-02. REPORTS OF TELEPHONE COMPANIES.) Each telephone company required to be assessed under the provisions of this chapter, annually, ~~under oath of~~ and subject to the provisions of section 12.1-11-02, the president, secretary, or other official of such company, shall make and file with the tax commissioner, on or before May first, on such form as the tax commissioner may prescribe, a report containing a statement of its telephone operating receipts in this state during the preceding calendar year, the number of stations in service on December thirty-first preceding, the number of miles of telephone line operated in providing telephone service, and such other information as the tax commissioner may require except that any telephone company having thirty telephone stations or less in service on December thirty-first preceding shall not be required to furnish a statement of its telephone operating receipts. Each report shall contain a statement of the number of stations located in each county served and each school district within such counties and the number of stations maintained per mile of telephone line in this state. Each telephone company subject to the provisions of this chapter, at the time of submitting its report to the tax commissioner, shall forward a copy of such report to the county auditor of each county in which it maintains a station or stations.

SECTION 6. AMENDMENT.) Section 57-34-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-03. COMPUTATION OF TAXES BY TAX COMMISSIONER.) On or before August first of each year, the tax commissioner shall compute the total tax to be assessed against each telephone company in this state in the following manner:

1. Telephone companies maintaining an average of one and twenty-five hundredths telephone stations or less per mile of telephone line operated in this state shall be taxed at

- the rate of one-half of one percent of their telephone operating receipts;
2. Telephone companies maintaining an average of not less than one and twenty-six hundredths and not more than one and seventy-five hundredths telephone stations per mile of telephone line operated in this state shall be taxed at the rate of one percent of their operating receipts;
  3. Telephone companies maintaining an average of not less than one and seventy-six hundredths and not more than two and twenty-five hundredths telephone stations per mile of telephone line operated in this state shall be taxed at the rate of one and one-half of one percent of their operating receipts;
  4. Telephone companies maintaining an average of more than two and twenty-five hundredths telephone stations per mile of telephone line operated in this state shall be taxed at the rate of two percent of their operating receipts.

Notwithstanding the provisions of subsections 1 through 4 of this section, if the tax due from any telephone company taxed under the provisions of this chapter shall be less than fifty cents per station maintained in this state, such company shall be subject to a tax of fifty cents per station, and, further, notwithstanding the provisions of subsections 1 through 4 of this section, any telephone company having ~~thirty~~ twenty telephone stations or less on December thirty-first preceding the year for which the tax computed under this section is assessed shall be ~~subject to a tax of fifty cents per station~~ exempt from the provisions of this chapter.

Approved March 8, 1979

## CHAPTER 590

SENATE BILL NO. 2237  
(Melland)

## ONE-WAY SIGNALING SYSTEM EXEMPTION

AN ACT to amend and reenact section 57-06-01 of the North Dakota Century Code, relating to the exemption of one-way paging and communication systems from property taxation under chapter 57-06.

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

SECTION 1. AMENDMENT.) Section 57-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-06-01. PUBLIC UTILITIES SUBJECT TO PROVISIONS OF CHAPTER.) The provisions of this chapter shall govern the assessment of the property of any public utility company defined in section 57-06-02, and of any other company used directly or indirectly in carrying or conveying persons, property, or messages, unless the said operative property is subject to a lieu tax in place of a general property tax. This chapter shall not apply to the property of any railway or street railway company, nor to the personal property of a company, the only business of which is providing signaling, paging, or other similar message service in which only one-way communication is possible, and except as otherwise provided in chapter 57-32, shall not apply to the property of any car line, express or air transportation company.

Approved March 26, 1979

## CHAPTER 591

SENATE BILL NO. 2297  
(Lips, Solberg)

## FORESTRY ACTIVITY MILL LEVY OR SERVICE CHARGE

AN ACT to provide for a mill levy or service charge by cities or park districts for the operation and maintenance of forestry activities.

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

SECTION 1. TAX LEVY FOR FORESTRY PURPOSES.) The governing body of a city or park district, upon approval by a fifty-five percent vote of the electors at any citywide or districtwide election, may annually levy a tax not in excess of five mills on the net taxable assessed valuation of property within the city or park district, for the purpose of providing funds for the establishment, operation and maintenance of forestry activities within the city or park district. Any such tax shall be in addition to and not restricted by any mill levy limit prescribed by law. The proceeds of any such levy may be used for forestry activities, including, but not limited to, the following: prevention or control of Dutch elm disease or other diseases which may affect trees, shrubs, and other vegetation; purchasing, planting, or removal of trees, shrubs, and other vegetation; pruning and maintenance of trees, shrubs, and other vegetation; purchasing of necessary equipment; hiring of personnel; contracting for services; public information and technical assistance; and other items related to forestry activities which may be necessary to provide for proper care, maintenance, propagation, and improvement of forestry resources within the city or park district.

SECTION 2. SERVICE CHARGE FOR FORESTRY PURPOSES.) In lieu of a mill levy as specified in section 1, a city or park district may propose a service charge as an alternative form of financing. Such alternative form of financing shall be approved by a fifty-five percent vote of the electors at any general or special citywide or districtwide election. The proceeds of any service charge may be used for forestry activities, as specified in section 1.

Approved April 7, 1979

## CHAPTER 592

SENATE BILL NO. 2461  
(Senators Thane, Sandness)  
(Representative Dietz)

### SCHOOL DISTRICT LEVY FOR UNEMPLOYMENT COMPENSATION

AN ACT to authorize a school district mill levy for unemployment compensation benefits.

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

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

Approved April 3, 1979

## CHAPTER 593

SENATE BILL NO. 2449  
(Nelson)

## TOWNSHIP LEVY FOR AIRPORT PURPOSES

AN ACT to create and enact a new section to chapter 57-15 and a new subsection to section 58-03-07 of the North Dakota Century Code, relating to a township tax levy for airport purpose and to the powers of townships concerning airports; and declaring an emergency.

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

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

TOWNSHIP LEVY FOR AIRPORT PURPOSES.) The electors of each township may vote at the annual meeting to levy a tax for the purpose of supporting an airport or an airport authority in an amount not exceeding four mills on the net assessed taxable valuation of the township, which levy shall be in addition to any mill levy limitations provided by law. The mill levy provided in this section shall not apply to any city, park district, or other taxing district that already has an airport levy.

SECTION 2.) A new subsection to section 58-03-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

To support an airport or to support or create an airport authority and to levy a tax for airport purposes within the limitations of section 1 of this Act.

SECTION 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 19, 1979

## CHAPTER 594

HOUSE BILL NO. 1096  
(Erickson)

## DISTRICT-OWNED SCHOOL BUS LEVY

AN ACT to amend and reenact section 57-15-52.1 of the North Dakota Century Code, relating to the school district levy for district-owned school bus costs.

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

SECTION 1. AMENDMENT.) Section 57-15-52.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-52.1. SCHOOL DISTRICT LEVY FOR DISTRICT-OWNED SCHOOL BUS COSTS.) Upon resolution of the school board and approval of sixty percent of the voters in the school district at the next election, a school district may levy an amount not to exceed five mills for the purpose of paying for the cost of purchasing, operating, and maintaining district-owned school buses. Such levy may be discontinued by resolution of the school board, or if a petition signed by not less than twenty-five electors or five percent of the electors of the school district as indicated by the number of persons voting at the last school district election, whichever is greater, is presented to the school board and voted upon in the same manner as it was established. The levy provided in this section shall be over and above any mill levy limitations provided by law.

Approved March 19, 1979

## CHAPTER 595

HOUSE BILL NO. 1385  
(Representative Tweten)  
(Senator Strand)

## STATE AID FOR SENIOR CITIZEN PROGRAMS AND PROPERTY TAX CREDITS

AN ACT to provide a state matching program for county and city senior citizen programs and activities; to amend and reenact section 57-02-08.1 of the North Dakota Century Code, relating to property tax credits for persons sixty-five years of age or older with limited income; providing an appropriation; and providing an effective date.

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

SECTION 1. STATE MATCHING PROGRAM FOR SENIOR CITIZEN PROGRAMS AND ACTIVITIES.) The social service board shall match funds levied by counties and cities for senior citizen programs and activities operated pursuant to the provisions of section 57-15-56. The grants shall be made on or before March first of each year and shall be equal to the amount levied for the previous taxable year by each county or city within the limitations of legislative appropriations.

\* SECTION 2. AMENDMENT.) Section 57-02-08.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. Any person sixty-five years of age or older in the year in which the tax was levied, or any person who is permanently and totally disabled as certified by a physician selected by the local governing body, with an income of ~~eight~~ nine thousand dollars or less per annum from all sources, including the income of any person dependent upon him, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, shall receive a reduction in the assessment on the assessed valuation on his homestead as defined in section 47-18-01, except that this exemption shall apply to any person who otherwise qualifies under the provisions of this subsection regardless of whether or not such person

\* NOTE: Subsection 2 of section 57-02-08.1 was also amended by section 2 of Senate Bill No. 2258, chapter 589.

is the head of a family. The exemption to which any person may be entitled shall be determined according to the following schedule:

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

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

2. Any person sixty-five years of age or older, or any person who is permanently and totally disabled as certified by a physician selected by the local governing body, with an income of ~~eight~~ nine thousand dollars or less per annum from all sources, including the income of any person dependent upon him, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, and who rents living quarters shall be eligible for refund for that part of his annual rent which is deemed by this subsection to constitute the payment of property tax and which is further deemed to represent a burdensome share of his income. For the purpose of this subsection, twenty percent of the annual rent, exclusive of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement, shall be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds four percent of the annual income of a qualified applicant, said applicant shall receive a refund from the state general fund for that amount in excess of four percent of his annual income, but such refund shall not be in excess of one hundred seventy-five dollars. In no case shall a husband and wife who are living together both be entitled to the refund as provided for in this subsection. Each application for refund under this subsection shall be made to the tax commissioner before the first day of June of each year by the person claiming the refund. The tax commissioner shall certify to the state treasurer the amount of the refund due, if any, and the state treasurer shall issue the refund from the state general fund to the applicant. In no case shall this subsection apply to rents or fees paid by a person to a nursing home licensed pursuant to section 23-16-01 if that nursing home has been declared exempt from property taxation.
3. All forms necessary to effectuate this section shall be prescribed and designed by the tax commissioner who shall annually distribute an adequate supply of same to each county director of tax equalization. The county directors of tax equalization shall make these forms available upon request.
4. In determining a person's income for eligibility under this section, the amount of medical expenses actually incurred by that person or any person dependent upon him and not compensated for by insurance or otherwise shall be deducted. For purposes of this section, the term "medical expenses" shall have the same meaning as it has for state income tax purposes.

SECTION 3. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not

otherwise appropriated, the sum of \$1,000,000.00, or so much thereof as may be necessary, to the social service board for the purpose of making matching grants to counties and cities for senior citizen programs and activities as provided in section 1 of this Act for the biennium beginning July 1, 1979, and ending June 30, 1981. If the moneys appropriated in this Act are not sufficient to make grants as provided in section 1, the available funds shall be prorated in the same proportion as such funds would have been had the appropriation been sufficient.

SECTION 4. EFFECTIVE DATE.) The provisions of section 2 of this Act shall be effective for assessments of property made on or after January 1, 1980, and for payments of rent for periods beginning on or after January 1, 1980.

Approved April 7, 1979

## CHAPTER 596

SENATE BILL NO. 2455  
(Senator Tennefos)  
(Representative Kloubec)

## TAXATION OF MIDA BOND INTEREST INCOME

AN ACT to amend and reenact sections 57-35-04, 57-35.1-01, and 57-35.2-02 of the North Dakota Century Code, relating to taxation of banks, trust companies, and savings and loan associations, and exempting from the basis of taxation interest or income on bonds issued under the Municipal Industrial Development Act; and to provide an effective date.

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

SECTION 1. AMENDMENT.) Section 57-35-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35-04. BASIS OF TAX.) The liability for the tax imposed by this chapter shall arise upon the first day of each calendar year, and shall be based upon and measured by the net income of each bank or trust company for the preceding calendar year, including the amount of its income from tax exempt securities, except for income from bonds for a project as provided for in subsection 4 of section 40-57-03, for such year as returned to the tax commissioner and county auditor, and the tax thereon shall be computed at the rate of five percent, but the minimum tax assessable to any one taxpayer shall be fifty dollars.

SECTION 2. AMENDMENT.) Section 57-35.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.1-01. DEFINITIONS.) As used in this chapter, unless the context or subject matter otherwise requires:

1. "Building and loan association" or "association" means any building and loan association or savings and loan association organized under the laws of the United States or the state of North Dakota, located in and having its principal place of business in this state.

2. "Net income" means gross income less the following deductions:
- a. Ordinary and necessary expenses paid or incurred in carrying on association business~~7~~.
  - b. Interest or dividends paid~~7~~.
  - c. Taxes, other than taxes imposed under this chapter, paid or accrued within the taxable year~~7~~ and.
  - d. Losses incurred during the taxable year not compensated for by insurance or other reimbursement.
  - e. Interest or income received on bonds for a project as provided for in subsection 4 of section 40-57-03.

SECTION 3. AMENDMENT.) Section 57-35.2-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.2-02. IMPOSITION AND BASIS OF TAX.) An annual tax is hereby imposed upon each bank, trust company, and building and loan association, for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year, commencing January 1, 1970. The tax shall be based upon and measured by the net income of each bank, trust company, and building and loan association for the preceding calendar year, including the amount of income received from tax-exempt securities, but excluding the amount of income received from bonds for a project as provided for in subsection 4 of section 40-57-03. The amount of the tax shall be computed at a rate of two percent of such net income. The liability for the tax imposed by this chapter shall arise upon the first day of each calendar year following the year for which the net income is used as the base for measuring the tax.

SECTION 4. EFFECTIVE DATE.) This Act is effective for all taxable years beginning on or after January 1, 1979.

Approved April 7, 1979

## CHAPTER 597

SENATE BILL NO. 2259  
(Committee on Finance and Taxation)  
(At the request of the Tax Department)

## CONFIDENTIALITY OF TAX INFORMATION

AN ACT to create and enact a new subsection to section 25-09-05, a new section to chapter 57-35, a new section to chapter 57-35.1, and a new section to chapter 57-35.2 of the North Dakota Century Code, relating to confidentiality of tax information; and to amend and reenact subsection 4 of section 50-09-08, subsection 2 of section 57-37.1-22, and subsection 3 of section 57-38-57 of the North Dakota Century Code, relating to confidentiality of tax information.

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

SECTION 1.) A new subsection to section 25-09-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

When any official or employee of the state hospital or the state school who, pursuant to subsection 1 or subsection 2 of this section, obtains income tax information or other tax information from the state tax commissioner the confidentiality of which is protected by law, such official or employee shall not divulge such information except to the extent necessary for the administration of this chapter or when otherwise directed by judicial order or when otherwise provided by law.

SECTION 2.) A new section to chapter 57-35 of the North Dakota Century Code is hereby created and enacted to read as follows:

SECURITY AS TO TAXPAYERS' REPORTS AND RETURNS.) The secrecy of reports and returns shall be guarded except as follows:

1. Except when otherwise directed by judicial order, or as is otherwise provided by law, the tax commissioner, his deputies, agents, clerks, and other officers and employees, shall not divulge or make known, in any manner, the amount of income, or any particulars set forth or disclosed in any report or return required under this chapter, including the copy of any portion thereof or information reflected in the taxpayer's federal income tax return that the tax commissioner may require to be attached to, furnished with, or included in the taxpayer's report or return required by this chapter. This provision shall not be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns, and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this chapter. Reports and returns shall be preserved for three years and thereafter until the tax commissioner orders them to be destroyed.
  
2. The tax commissioner, however, may permit the commissioner of internal revenue of the United States, or the proper officer of any state or of the District of Columbia or of any territory of the United States, imposing a tax similar to that imposed by this chapter, or the authorized representative of any such officer of the authorized agent of the multistate tax commission, to inspect the reports or returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract or copy of the report or return of income of any taxpayer, or supply him with information concerning any item contained in any report or return, or disclosed by the report of any investigation of the income, or report or return of income, of any taxpayer, but such permission shall be granted, or such information furnished, to such officers or representatives only if the statutes of the United States or of such other state or of the District of Columbia or of a territory of the United States, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter; provided that any information furnished or made available by the tax commissioner to any other person pursuant to this subsection shall be used by such person only for tax administration purposes; provided, further, that similar information furnished or made available to the tax commissioner by a representative or officer of the United

States or of any other state or of the District of Columbia or a territory of the United States shall be used by the tax commissioner only for tax administration purposes.

SECTION 3.) A new section to chapter 57-35.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

SECURITY AS TO TAXPAYERS' REPORTS AND RETURNS.) The secrecy of reports and returns shall be guarded except as follows:

1. Except when otherwise directed by judicial order, or as is otherwise provided by law, the tax commissioner, his deputies, agents, clerks, and other officers and employees, shall not divulge or make known, in any manner, the amount of income, or any particulars set forth or disclosed in any report or return required under this chapter, including the copy or any portion thereof or information reflected in the taxpayer's federal income tax return that the tax commissioner may require to be attached to, furnished with, or included in the taxpayer's report or return required by this chapter. This provision shall not be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns, and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this chapter. Reports and returns shall be preserved for three years and thereafter until the tax commissioner orders them to be destroyed.
2. The tax commissioner, however, may permit the commissioner of internal revenue of the United States, or the proper officer of any state or of the District of Columbia or of any territory of the United States, imposing a tax similar to that imposed by this chapter, or the authorized representative of any such officer or the authorized agent of the multistate tax commission, to inspect the reports or returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract or copy of the report or return of income of any taxpayer, or supply him with information concerning any item contained in any report or return, or disclosed by the report of any investigation of the income, or report or return of income, of any taxpayer, but such permission shall be granted, or such information furnished, to such officers or representatives only if the statutes of the United

States or of such other state or of the District of Columbia or of a territory of the United States, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter; provided that any information furnished or made available by the tax commissioner to any other person pursuant to this subsection shall be used by such person only for tax administration purposes; provided, further, that similar information furnished or made available to the tax commissioner by a representative or officer of the United States or of any other state or of the District of Columbia or a territory of the United States shall be used by the tax commissioner only for tax administration purposes.

SECTION 4.) A new section to chapter 57-35.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

SECURITY AS TO TAXPAYERS' REPORTS AND RETURNS.) The secrecy of reports and returns shall be guarded except as follows:

1. Except when otherwise directed by judicial order, or as is otherwise provided by law, the tax commissioner, his deputies, agents, clerks, and other officers and employees, shall not divulge or make known, in any manner, the amount of income, or any particulars set forth or disclosed in any report or return required under this chapter, including the copy or any portion thereof or information reflected in the taxpayer's federal income tax return that the tax commissioner may require to be attached to, furnished with, or included in the taxpayer's report or return required by this chapter. This provision shall not be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns, and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this chapter. Reports and returns shall be preserved for three years and thereafter until the tax commissioner orders them to be destroyed.
2. The tax commissioner, however, may permit the commissioner of internal revenue of the United States, or the proper officer of any state or of the District of Columbia or of any territory of the United States, imposing a tax similar to that imposed by this chapter, or the authorized representative of any such officer or the authorized agent

of the multistate tax commission, to inspect the reports or returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract or copy of the report or return of income of any taxpayer, or supply him with information concerning any item contained in any report or return, or disclosed by the report of any investigation of the income, or report or return of income, of any taxpayer, but such permission shall be granted, or such information furnished, to such officers or representatives only if the statutes of the United States or of such other state or of the District of Columbia or of a territory of the United States, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter; provided that any information furnished or made available by the tax commissioner to any other person pursuant to this subsection shall be used by such person only for tax administration purposes; provided, further, that similar information furnished or made available to the tax commissioner by a representative or officer of the United States or of any other state or of the District of Columbia or a territory of the United States shall be used by the tax commissioner only for tax administration purposes.

SECTION 5. AMENDMENT.) Subsection 4 of section 50-09-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Request from state, county, and local agencies information deemed necessary to carry out the child support enforcement program. All officers and employees of state, county, and local agencies shall cooperate with the state and county agency in locating absent parents of children to whom an obligation of support is owed or on whose behalf assistance is being provided and, on request, shall supply the state or county agency with available information relative to the location, income, social security number, and property holdings of the absent parent, notwithstanding any provision of law making that information confidential. Any person acting under the authority of the social service board who pursuant to this subsection obtains information from the office of the state tax commissioner the confidentiality of which is protected by law shall not divulge such information except to the extent necessary for the administration of the child support enforcement program or when otherwise directed by judicial order or when otherwise provided by law.

SECTION 6. AMENDMENT.) Subsection 2 of section 57-37.1-22 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The tax commissioner, however, may permit the commissioner of internal revenue of the United States, or the proper officer of any state or of the District of Columbia or of any territory of the United States imposing a tax similar to that imposed by this chapter, or the authorized representative of either any such officer, to inspect the estate tax return for any estate, or may furnish to such officer or his authorized representative an abstract of the return for any estate, or supply him with information concerning any item contained in any return, or disclosed by the report of any investigation of the estate, but such permission shall be granted, or such information furnished, to such officers or representatives only if the statutes of the United States, or of such other state or of the District of Columbia or of any territory of the United States, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter; provided that any information furnished or made available by the tax commissioner to any other person pursuant to this subsection shall be used by such person only for the administration of tax laws administered by such person; provided, further, that similar information furnished or made available to the tax commissioner by a representative or officer of any other state or of the United States or of the District of Columbia or of a territory of the United States shall be used by the tax commissioner only for the administration of tax laws administered by such commissioner.

SECTION 7. AMENDMENT.) Subsection 3 of section 57-38-57 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The tax commissioner, however, may permit the commissioner of internal revenue of the United States, or the proper officer of any state or of the District of Columbia or of any territory of the United States, imposing an income tax similar to that imposed by this chapter, or the authorized representative of ~~either~~ any such officer or the authorized agent of the multistate tax commission, to inspect the income tax returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract or copy of the return of income of any taxpayer, or supply him with information concerning any item contained in any return, or disclosed by the report

of any investigation of the income, or return of income, of any taxpayer, but such permission shall be granted, or such information furnished, to such officers or representatives only if the statutes of the United States, or of such other state or of the District of Columbia or of a territory of the United States, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter; provided that any information furnished or made available by the tax commissioner to any other person pursuant to this subsection shall be used by such person only for tax administration purposes; provided, further, that similar information furnished or made available to the tax commissioner by a representative or officer of the United States or of any other state or of the District of Columbia or a territory of the United States shall be used by the tax commissioner only for tax administration purposes.

Approved March 8, 1979

## CHAPTER 598

HOUSE BILL NO. 1273  
(Committee on Finance and Taxation)  
(At the request of the Tax Department)

## MISCELLANEOUS TAX CHANGES

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to the retail sale of carpet and drapes; and to amend and reenact sections 43-07-04, 57-36-08, 57-36-12, 57-36-32, subsection 2 of section 57-39.2-04, subsection 5 of section 57-39.2-14, subsection 4 of section 57-52-03, and subsection 3 of section 57-53-01 of the North Dakota Century Code, relating to the requirement that an applicant for a contractor's license must have a sales tax permit, to provisions of the cigarette tax law for refunds, sale of tax stamps, and collection of the separate and additional tax, to provisions of the sales tax law relating to the exemption for freight transportation service, and the fee charged for reinstatement of a sales tax permit, and relating to the definition of special fuel.

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

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

Notwithstanding any other provisions of this chapter, when a contractor or subcontractor who is a retailer and who furnishes and installs into or attaches to real property in this state drapes, hardware for hanging drapes, or carpet for floor covering, the contractor or subcontractor shall be deemed to have made a retail sale of such item.

SECTION 2. AMENDMENT.) Section 43-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-04. LICENSE - HOW OBTAINED.) To obtain a license under this chapter, an applicant shall submit, on such forms as the registrar shall prescribe, an application under oath containing a statement of the applicant's experience and qualifications as a contractor, and the value and character of the contract work completed by him during the one year preceding the date of such

application, and the names of the persons for whom such work was done. ~~The applicant shall obtain a use tax account number from the office of the state tax commissioner and report such number on the application.~~ A bond, as hereinafter prescribed, shall be filed with the application and the contractor shall submit a statement from the North Dakota workmen's compensation bureau that the contractor has secured workmen's compensation coverage satisfactory to that bureau along with such other information as may be required by the registrar to assist him in determining the applicant's fitness to act in the capacity of a contractor. The application shall contain a statement that the applicant desires the issuance of a license under the terms of this chapter, and shall specify the class of license sought. Any person refused a license by the registrar shall have a right of appeal from such refusal to the district court of Burleigh County, North Dakota, if a nonresident, or to the district court of the county of his residence, if a resident of North Dakota.

SECTION 3. AMENDMENT.) Section 57-36-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-08. STAMPS PREPARED BY COMMISSIONER.) The tax commissioner shall prepare and have suitable stamps for use on each kind of package prescribed in this chapter, and shall keep an accurate record of all stamps delivered, and a further accurate record of all stamps coming into and leaving his hands. The tax commissioner shall sell the stamps herein provided for only to ~~dealers~~ persons holding a "distributor's license", issued as provided in this chapter, but wholesale distributors of cigarettes located outside of this state, may apply for and receive a "distributor's license", as provided in section 57-36-02, and may purchase stamps from the tax commissioner and affix the same on cigarettes to be sold in this state, and shall cancel the same in the manner prescribed by the regulations of the tax commissioner. In such case, the purchaser within this state receiving such stamped cigarettes will not be required to purchase and affix stamps thereon.

SECTION 4. AMENDMENT.) Section 57-36-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-12. DISTRIBUTORS MAY NOT SELL STAMPS.) No distributor or wholesale dealer shall resell to any other distributor or dealer any stamps purchased by him from the tax commissioner, and any distributor who has on hand any unused and canceled stamps at the time of discontinuing the business of selling cigarettes may return such stamps to the tax commissioner and receive ~~ninety-five~~ ninety-seven percent of the face value thereof.

\* SECTION 5. AMENDMENT.) Section 57-36-32 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-32. SEPARATE AND ADDITIONAL TAX ON THE SALE OF CIGARETTES - COLLECTION - ALLOCATION OF REVENUE - TAX AVOIDANCE

\* NOTE: Section 57-36-32 was also amended by section 7 of House Bill No. 1588, chapter 551.

PROHIBITED.) There is hereby levied and assessed and there shall be collected by the ~~proper officer~~ state tax commissioner and paid to the state treasurer for crediting to the general fund, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of one-half mill on each such cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures. No person, firm, or corporation shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying such tax thereon to the state ~~treasurer~~ tax commissioner.

SECTION 6. AMENDMENT.) Subsection 2 of section 57-39.2-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Gross receipts from the sales, furnishing, or service of passenger transportation service and gross receipts from the sales, furnishing, or service of freight transportation service when provided by a common carrier and title to the transported tangible personal property has passed from the seller to the purchaser.

SECTION 7. AMENDMENT.) Subsection 5 of section 57-39.2-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. ~~The commissioner shall charge a fee of five dollars for the issuance of a permit to a retailer whose permit has been previously revoked.~~ Whenever the holder of a permit has had such a permit revoked for failure to comply with the provisions of this chapter or any rules and regulations prescribed by the commissioner and adopted under this chapter, the commissioner shall charge a fee of fifty dollars for the issuance or reissuance of such permit. However, if a permit was revoked for filing returns showing no tax due for four consecutive quarters, the commissioner shall charge only a fee of five dollars for the issuance or reissuance of such permit.

SECTION 8. AMENDMENT.) Subsection 4 of section 57-52-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles and shall include all gases and liquids which meet the specifications as determined by the state laboratories department pursuant to the provisions of section 19-10-10, except that it does not include motor vehicle fuels as defined in section 57-54-03;

SECTION 9. AMENDMENT.) Subsection 3 of section 57-53-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles and shall include all gases and liquids which meet the specifications as determined by the state laboratories department pursuant to the provisions of section 19-10-10, except that it does not include motor vehicle fuel defined in section 57-54-03;

Approved March 13, 1979

## CHAPTER 599

HOUSE BILL NO. 1275  
(Committee on Finance and Taxation)  
(At the request of the Tax Department)

## ESTATE TAX FEDERALIZATION

AN ACT to amend and reenact subsection 8 of section 57-37.1-01 of the North Dakota Century Code, relating to the federalizing of the estate tax; to amend and reenact subsection 1 of section 57-37.1-03 of the North Dakota Century Code, relating to the determination of the taxable estate; and to amend and reenact subsection 1 of section 57-37.1-13 of the North Dakota Century Code, relating to notice of transfer of a decedent's assets.

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

\* SECTION 1. AMENDMENT.) Subsection 8 of section 57-37.1-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "United States Internal Revenue Code of 1954, as amended" means the United States Internal Revenue Code of 1954 as amended to and including December 31, ~~1976~~ 1978.

\*\* SECTION 2. AMENDMENT.) Subsection 1 of section 57-37.1-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

\* NOTE: Subsection 8 of section 57-37.1-01 was also amended by section 2 of House Bill No. 1156, chapter 600.

\*\* NOTE: Section 57-37.1-03 was repealed by section 4 of House Bill No. 1156, chapter 600.

SECTION 3. AMENDMENT.) Subsection 1 of section 57-37.1-13 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any safe deposit company, trust company, corporation, bank, or other institution or person having possession, control, custody, or partial control or custody of any securities, deposits or other assets, including shares of the capital stock of, or other interest in, such safe deposit company, trust company, corporation, bank, or other institution, standing in the name of a resident or nonresident decedent, or belonging to or standing in the joint name of such decedent and one or more other persons, who delivers or transfers the same to the personal representative, agent, deputy, trustee, legatee, heir, surviving joint owner, or any other successor in interest of such decedent, shall give the tax commissioner notice of the any amount paid that had a value in excess of one thousand dollars, and the name or names and addresses of the transferees, which notice shall be on a form prescribed by the tax commissioner. Such notice shall be filed with the tax commissioner within thirty days from the date of payment. If no notice is given by the transferor, as prescribed herein, the transferor shall be liable for any estate tax which is unpaid on the asset which was transferred.

Approved March 15, 1979

## CHAPTER 600

HOUSE BILL NO. 1156  
 (Representatives Tweten, Crabtree, Thompson)  
 (Senator Goodman)

### ESTATE TAX COMPUTATION

AN ACT to state legislative intent concerning estate taxes; to amend and reenact subsection 8 of section 57-37.1-01 and section 57-37.1-04 of the North Dakota Century Code, relating to estate tax definitions and providing that the rate of the estate tax shall equal the maximum federal estate tax credit for state death taxes; to repeal section 57-37.1-03 of the North Dakota Century Code, relating to determination of North Dakota taxable estate; and declaring an emergency.

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

SECTION 1. LEGISLATIVE INTENT CONCERNING ESTATE TAXES.) The legislative intent is to not tax property transferred upon death. It is the intent of the legislative assembly to repeal the state estate tax to the extent possible without jeopardizing that portion of federal estate taxes which is allowed as a credit for state estate taxes. It is recognized that, if the state estate tax were totally repealed, the amount of federal estate taxes due would be increased by the amount of credit at no savings to the people of North Dakota.

\* SECTION 2. AMENDMENT.) Subsection 8 of section 57-37.1-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "United States Internal Revenue Code of 1954, as amended" means the United States Internal Revenue Code of 1954 as amended to and including December 31, 1976 1978.

SECTION 3. AMENDMENT.) Section 57-37.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

- \* NOTE: Subsection 8 of section 57-37.1-01 was also amended by section 1 of House Bill No. 1275, chapter 599.

tax-prescribed-in-the-following-table.

North-Dakota  
Taxable-Estate-----Rates-of-Tax

From-----To-----Tax-----Percent-----Of-Excess-Over

\$-----0	-----\$10,000	-----\$-----0	-----4	-----\$-----0
10,000	-----20,000	-----400	-----6	-----10,000
20,000	-----30,000	-----1,000	-----8	-----20,000
30,000	-----40,000	-----1,800	-----10	-----30,000
40,000	-----50,000	-----2,800	-----12	-----40,000
50,000	-----60,000	-----4,000	-----14	-----50,000
60,000	-----80,000	-----5,400	-----16	-----60,000
80,000	-----0,600	-----8,600	-----18	-----80,000

Provided--that--the--amount--of--tax--imposed--by--this--section--on--the--transfer--of--any--estate--shall--not--be--less--than--the--maximum--tax--credit--allowable--for--state--death--taxes--against--the--federal--estate--tax--imposed--with--respect--to--that--part--of--the--decedent's--estate--which--has--a--taxable--situs--in--this--state equal to the maximum tax credit allowable for state death taxes against the federal estate tax imposed with respect to a decedent's estate which has a taxable situs in this state. If only a portion of a decedent's estate has a taxable situs in this state, such maximum tax credit shall be determined by multiplying the entire amount of the credit allowable against the federal estate tax for state death taxes by the percentage which the value of the portion of the decedent's estate which has a taxable situs in this state bears to the value of the entire estate. For the purposes of this section, "federal estate tax" means the tax imposed on transfers of estates of decedents pursuant to the United States Internal Revenue Code of 1954, as amended, and "North Dakota taxable estate" means all property in a decedent's federal gross estate that has a situs in North Dakota.

\* SECTION 4. REPEAL.) Section 57-37.1-03 of the 1977 Supplement to the North Dakota Century Code is hereby repealed.

SECTION 5. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 16, 1979

\* NOTE: Subsection 2 of section 57-37.1-03 was amended by section 2 of House Bill No. 1275, chapter 599.

## CHAPTER 601

HOUSE BILL NO. 1615  
(Conmy)

## INVENTORY OF SAFE DEPOSIT BOX CONTENTS

AN ACT to amend and reenact section 57-37.1-12 of the North Dakota Century Code, relating to access to the contents of safe deposit boxes after death of owner.

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

SECTION 1. AMENDMENT.) Section 57-37.1-12 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

writing-permitting-such-access until a complete inventory of the entire contents of the safe deposit box has been prepared by a person entitled to access to the box in the presence of an officer or other agent of the lessor of the box. The inventory so prepared shall be filed with the state tax commissioner by the lessor of the box within thirty days from the date of its preparation. After the lessor of the box has complied with the provisions of this section, it shall not limit access to the safe deposit box or similar receptacle by persons entitled to access thereto, and it shall be released of all liability to those persons and to the state of North Dakota for any assets, documents, or things taken from the safe deposit box or similar receptacle.

Approved March 7, 1979

## CHAPTER 602

SENATE BILL NO. 2484  
(Committee on Delayed Bills)  
(At the request of Senator Goodman)

INCOME TAX FEDERALIZATION AND  
DEDUCTIONS

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to itemizing of deductions; to amend and reenact subsection 21 of section 57-38-01 of the North Dakota Century Code, relating to the definition of the United States Internal Revenue Code of 1954, as amended, for North Dakota income tax purposes; providing an effective date; and declaring an emergency.

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

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

Any individual taxpayer filing a North Dakota income tax return pursuant to the provisions of this chapter may itemize deductions in lieu of taking a standard deduction even though a standard deduction was used in determining federal taxable income; provided that married persons filing separately for state income tax purposes must both either itemize or take the standard deduction. This provision of law is effective for taxable years beginning on or after January 1, 1979.

SECTION 2. AMENDMENT.) Subsection 21 of section 57-38-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21. "Federal Internal Revenue Code of 1954, as amended", "United States Internal Revenue Code of 1954, as amended", and "Internal Revenue Code of 1954, as amended", mean the United States Internal Revenue Code of 1954, as amended to and including December 31, ~~1976~~ 1978; provided, however, that those terms shall mean the United States Internal Revenue Code of 1954, as amended to and including December 31, 1976, for purposes of determining under this chapter the income tax return filing requirements, deductions for capital gains, allowances of deductions for personal

exemptions, low income allowance, and standard deduction for individuals, estates, and trusts; and provided further that the provisions of section 515 of the Revenue Act of 1978 [Public Law No. 95-600, section 515; 92 Stat. 2884, section 515] postponing the carryover basis rules of sections 1014(d), 1016(a), and 1023 of the United States Internal Revenue Code of 1954, as amended, for property acquired from decedents dying after December 31, 1976, to property acquired from decedents dying after December 31, 1979, are hereby retroactively incorporated for the purposes of this chapter, and any further postponement, modification, or repeal of those provisions by the Congress of the United States shall be applicable for the purposes of this chapter.

SECTION 3. EFFECTIVE DATE.) Except as otherwise provided in this Act for the carryover basis rules for property acquired from decedents dying after December 31, 1976, the provisions of this Act shall be effective for taxable years beginning on or after January 1, 1979.

SECTION 4. EMERGENCY.) The provisions of this Act relating to the carryover basis rules for property acquired from decedents dying after December 31, 1976, is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 7, 1979

## CHAPTER 603

HOUSE BILL NO. 1140  
(A. Hausauer)

## ARMED FORCES PAY ADJUSTMENT

AN ACT to amend and reenact subdivision k of subsection 1 of section 57-38-01.2 of the North Dakota Century Code, relating to adjustments to individual income for amounts received from the armed services; and providing an effective date.

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

SECTION 1. AMENDMENT.) Subdivision k of subsection 1 of section 57-38-01.2 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- k. Reduced by any amount, up to a maximum of one thousand dollars, received by any person as payment for services performed while on active duty in the armed forces of the United States or as payment for attending periodic training meetings for drill and instruction as a member of the national guard or of a reserve unit of the armed forces of the United States. However, persons serving in the armed forces of the United States, except field grade and general officers, who are stationed outside of any state of the United States or the District of Columbia for not less than thirty days during the tax year shall be allowed an additional reduction of up to three hundred dollars per month for each month or portion of a month received as payment for services performed while on active duty at such location.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1979.

Approved March 3, 1979

## CHAPTER 604

HOUSE BILL NO. 1306  
(A. Hausauer, Schindler)

## CONTRACT FOR DEED INTEREST ADJUSTMENT

AN ACT to create a new subdivision to subsection 1 of section 57-38-01.2 of the North Dakota Century Code, relating to a reduction in the taxable income for interest received on certain contracts for deed; and to provide an effective date.

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

SECTION 1.) A new subdivision to subsection 1 of section 57-38-01.2 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Reduced by the amount of interest received during that taxable year on a contract for deed on the sale of eighty or more acres of agricultural land to a beginning farmer. The contract for deed must extend for not less than fifteen years and have an annual interest rate of not more than six percent. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a notarized statement from the buyer containing a list of the buyer's assets and debts and giving the buyer's net worth, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including his dependents and spouse, if any, for purposes of this subdivision, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings shall not be included. This statement shall be filed along with the income tax return. For the purposes of

this subdivision, "beginning farmer" means any person who:

- (1) Is a resident of this state.
- (2) Receives more than half his annual income from farming, unless the person initially commences farming during the tax year for which an adjustment will be claimed under this subdivision.
- (3) Intends to use any farmland that he wishes to purchase or rent for agricultural purposes.
- (4) Has had adequate training, by experience or education, in the type of farming operation which he wishes to begin.
- (5) Has, including the net worth of his dependents and spouse, if any, a net worth of less than fifty thousand dollars.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for taxable years beginning on or after January 1, 1979.

Approved March 23, 1979

## CHAPTER 605

SENATE BILL NO. 2260  
(Committee on Finance and Taxation)  
(At the request of the Tax Department)

## CORPORATE INCOME TAX ADJUSTMENT

AN ACT to amend and reenact subdivision d of subsection 1 of section 57-38-01.3 of the North Dakota Century Code, relating to the deduction of taxes paid to foreign countries; and providing an effective date.

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

\* SECTION 1. AMENDMENT.) Subdivision d of subsection 1 of section 57-38-01.3 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-01.3. ADJUSTMENTS TO TAXABLE INCOME FOR CORPORATIONS.)

1. The taxable income of a corporation as computed pursuant to the provisions of the Internal Revenue Code of 1954, as amended, shall be:

d. Increased by the amount of any income taxes, including income taxes of foreign countries, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income. However, those taxes, paid or accrued as the case may be during the applicable tax year, imposed by section 57-38-66 of this chapter shall be allowable as a deduction when determining taxable income for state income tax purposes.

SECTION 2. EFFECTIVE DATE.) This Act shall become effective for all taxable years beginning on or after January 1, 1979.

Approved March 12, 1979

\* NOTE: Subdivision d of subsection 1 of section 57-38-01.3 was also amended by section 2 of House Bill No. 1130, chapter 612.

## CHAPTER 606

HOUSE BILL NO. 1612  
(Gackle)

### INVESTMENT CREDIT CARRYBACK AND SUBCHAPTER S ELECTION

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to the carry back of investment credits for prior taxable years; to amend and reenact section 57-38-01.4 of the North Dakota Century Code, relating to the subchapter S election by shareholders of a corporation for income tax purposes; and to provide an effective date.

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

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

REPORTING OF INVESTMENT CREDIT CARRY BACK FOR PRIOR TAXABLE YEARS.) A taxpayer who carries back an investment credit to prior taxable years for federal income tax purposes pursuant to section 46 (b) of the United States Internal Revenue Code of 1954, as amended, shall report any resulting adjustments to taxable income for state income tax purposes in the taxable year the federal income tax refunds are actually received or credited, and, notwithstanding the provisions of section 57-38-38, such a taxpayer need not report those adjustments by the filing of amended state income tax returns for the carry back years.

SECTION 2. AMENDMENT.) Section 57-38-01.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-01.4. RECOGNITION OF SUBCHAPTER S ELECTION.)

1. For the purposes of this chapter, any person as defined in section 57-38-01 and required to file a North Dakota income tax return who makes an election under subchapter S of the Internal Revenue Code of 1954, as amended, for federal income tax purposes shall have such status recognized and such person's taxable income shall be

computed as provided in subchapter S of the Internal Revenue Code of 1954, as amended, with the adjustments allowed by this chapter or other provisions of law.

2. Notwithstanding the provisions of subsection 1 of this section, any person therein described who makes an election under subchapter S of the Internal Revenue Code of 1954, as amended, may elect to have such status not recognized for purposes of filing returns pursuant to this chapter. In such case, the taxable income of the corporation shall be reported as is the taxable income of other corporations that are subject to the provisions of this chapter. The taxable income of each shareholder of such corporation shall be reduced by the amount of federal income taxes paid by the shareholder on that part of the income or gain of the corporation received by the shareholder ~~which was not~~ when received as a dividend ~~for which an adjustment was made~~ pursuant to subdivision i of subsection 1 of section 57-38-01.2 or subdivision g of subsection 1 of section 57-38-01.3.
3. Those persons who were required for taxable years beginning prior to January 1, 1969, to file as subchapter S taxpayers under subsection 1 of this section may elect for taxable years beginning on or after January 1, 1969, to have such status not recognized for purposes of filing returns pursuant to this chapter, provided such election is made, on a form prescribed by the tax commissioner, prior to the end of the taxable year that begins in 1969.
4. If an election to have such subchapter S status recognized or not recognized is made under subsection 2 or 3 of this section, a termination or revocation of such status or a subsequent election relating thereto shall be made only in accordance with the conditions and requirements prescribed for terminations, revocations and subsequent elections under subchapter S of the Internal Revenue Code of 1954, as amended.
5. The distributed and undistributed taxable income of an electing small business corporation for federal and state income tax purposes derived from or connected with sources in this state does constitute income derived from sources within this state for a nonresident person who is a shareholder of such a corporation, and a net operating loss of such corporation derived from or connected with sources in this state does constitute a loss or deduction connected with sources in this state for such a nonresident individual.

SECTION 3. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1979.

Approved March 13, 1979

## CHAPTER 607

HOUSE BILL NO. 1506  
 (Representatives Koski, Crabtree)  
 (Senators Nething, Reiten)

### CHARITABLE CONTRIBUTION CREDIT

AN ACT to amend and reenact section 57-38-01.7 of the North Dakota Century Code, relating to the amount taxpayers may credit against the income tax for contributions to private colleges in the state; and providing an effective date.

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

\* SECTION 1. AMENDMENT.) Section 57-38-01.7 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-01.7. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS - LIMITATION.) At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by this chapter for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by such taxpayer during such year to nonprofit private institutions of higher education located within the state of North Dakota or to the North Dakota independent college fund.

1. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ~~twenty~~ forty percent of such taxpayer's total income tax under this chapter for such year, or  ~~fifty~~ one hundred dollars, whichever is less.
2. In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent of such corporation's total income tax under this chapter for such year, or ~~five--hundred~~ one thousand dollars, whichever is less.

For the purpose of this section, the term "nonprofit private institution of higher education" shall mean only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum and which

\* NOTE: Section 57-38-01.7 was also amended by section 1 of Senate Bill No. 2309, chapter 608.

normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. ~~This section shall apply only with respect to taxable years beginning on or after January 1, 1975.~~

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for taxable years beginning on or after January 1, 1979.

Approved March 19, 1979

## CHAPTER 608

SENATE BILL NO. 2309  
(Tennefos, Farrington)

## PRIVATE INSTITUTION CONTRIBUTION CREDIT

AN ACT to amend and reenact section 57-38-01.7 of the North Dakota Century Code, relating to a credit for contributions to nonprofit private institutions of secondary and postsecondary education; and providing an effective date.

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

\* SECTION 1. AMENDMENT.) Section 57-38-01.7 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-01.7. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -  
LIMITATION.)

1. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by this chapter for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by such taxpayer during such year to nonprofit private institutions of higher education located within the state of North Dakota or to the North Dakota independent college fund.

~~1-~~ a. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this ~~section~~ subsection for any taxable year shall not exceed ~~twenty forty~~ percent of such taxpayer's total income tax under this chapter for such year, or ~~fifty one~~ hundred dollars, whichever is less.

~~2-~~ b. In the case of a corporation, the amount allowable as a credit under this ~~section~~ subsection for any taxable year shall not exceed ten percent of such corporation's total income tax under this chapter for such year, or ~~five--~~hundred one thousand dollars, whichever is less.

\* NOTE: Section 57-38-01.7 was also amended by section 1 of House Bill No. 1506, chapter 607.

2. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by this chapter for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by such taxpayer during such year directly to nonprofit private institutions of secondary education, located within the state of North Dakota.
- a. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this subsection for any taxable year shall not exceed twenty percent of such taxpayer's total income tax under this chapter for such year, or fifty dollars, whichever is less.
- b. In the case of a corporation, the amount allowable as a credit under this subsection for any taxable year shall not exceed ten percent of such corporation's total income tax under this chapter for such year, or five hundred dollars, whichever is less.
3. For the purpose of this section, the term "nonprofit private institution of higher education" shall mean only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. ~~This section shall apply only with respect to taxable years beginning on or after January 1, 1975.~~ The term "nonprofit private institutions of secondary education" shall mean only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through the twelfth grades.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for taxable years beginning on or after January 1, 1979.

Approved April 7, 1979

## CHAPTER 609

HOUSE BILL NO. 1562  
(Herman, Mushik)

### TAXATION OF RESIDENCE SALE PROCEEDS

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to the taxation of the gain or loss resulting from the sale of a principal residence by a taxpayer moving out of North Dakota; and providing for an effective date.

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

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

TAXATION OF THE GAIN OR LOSS RESULTING FROM THE SALE OF A PRINCIPAL RESIDENCE.) Any gain or loss resulting from the sale or exchange of a principal residence in this state by a taxpayer who reinvests in another principal residence outside of this state shall be treated in the same way for state income tax purposes as it is treated for federal income tax purposes.

SECTION 2. EFFECTIVE DATE.) This section shall become effective for all taxable years beginning on or after January 1, 1979.

Approved March 7, 1979

## CHAPTER 610

HOUSE BILL NO. 1563  
(Representatives Maixner, Martin, Nicholas)  
(Senators Albers, Barth, Rait)

### TAXATION OF FORCED SALE PROCEEDS

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, providing for the exemption from taxation of proceeds realized from a forced sale due to eminent domain proceedings.

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

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

NO GAIN RECOGNIZED ON PROPERTY SUBJECT TO EMINENT DOMAIN SALE OR TRANSFER.) If any private property, through the exercise of eminent domain, is involuntarily converted into property of either like or unlike kind, no gain, either ordinary or capital, shall be recognized for income tax purposes.

Approved March 7, 1979

## CHAPTER 611

HOUSE BILL NO. 1058  
(Legislative Council)  
(Interim Committee on Finance and Taxation)

## INTEREST ON TAX REFUNDS AND PENALTIES

AN ACT to amend and reenact section 57-38-35.1, subsection 1 of section 57-39.2-18, section 57-39.2-25, and subsection 1 of section 57-40.2-15 of the North Dakota Century Code, relating to interest, penalties, and refunds on income taxes and sales and use taxes; and providing an effective date.

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

SECTION 1. AMENDMENT.) Section 57-38-35.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-35.1. MINIMUM REFUNDS AND COLLECTIONS - APPLICATION.) No income tax refunds shall be made by the tax commissioner to any taxpayer unless the amount to be refunded shall exceed one dollar. No remittance of income tax need be made nor any assessment or collection of tax should be made unless the amount exceeds one dollar, including penalties and interest. All refunds and credits for overpayment to any taxpayer may be applied to payment of taxpayer's delinquent income taxes or delayed until taxpayer's delinquent returns have been filed. ~~The provisions of this section to be effective for all returns filed after December 31, 1964.~~ Interest of seven percent per annum shall be allowed and paid upon any overpayment of tax from sixty days after the due date of the return or after the date such return was filed or after the date the tax due was fully paid, whichever comes later, to the date of the refund. If the amount of tax imposed by chapter 57-38 is reduced by reason of a carryback of a net operating loss or net capital loss, the interest in this section shall not start accruing until after the close of the taxable year in which the net operating loss or net capital loss occurred.

SECTION 2. AMENDMENT.) Subsection 1 of section 57-39.2-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any person failing to file a return or corrected return or to pay any tax within the time required by this chapter shall be subject to a penalty of five percent of the amount of tax due or of five dollars, whichever is greater, plus interest of one percent 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 waive, and if paid, refund all or any part of such penalty and interest. Such penalty and interest shall be paid to the commissioner and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this chapter.

SECTION 3. AMENDMENT.) Section 57-39.2-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-25. PAYMENT OF REFUND.) Wherever by any provisions of this chapter a refund is authorized, the commissioner shall certify the amount of the refund, the reason therefor and the name of the payee to the department of accounts and purchases, who shall thereupon draw a warrant on the general fund in the amount specified payable to the named payee. Interest of seven percent per annum shall be allowed and paid upon any overpayment of tax from sixty days after the due date of the return or after the date such return was filed or after the date the tax due was fully paid, whichever comes later, to the date of the refund.

SECTION 4. AMENDMENT.) Subsection 1 of section 57-40.2-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any person failing to file a return or corrected return or to pay any tax imposed pursuant to this chapter, within the time required by this chapter, shall be subject to a penalty of five percent of the amount of tax due or of five dollars, whichever is greater, plus interest of one percent 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 waive, and if paid, refund all or any part of such penalty and interest. Such penalty and interest shall be paid to the commissioner and disposed of in the same manner as the tax with respect to which it is attached. Unpaid penalties and interest may be enforced in the same manner as is the tax.

SECTION 5. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable periods beginning on or after January 1, 1979.

Approved March 7, 1979

## CHAPTER 612

HOUSE BILL NO. 1130  
(Kingsbury, Bjornson, Melby, Peltier, Thompson)

### BUSINESS PRIVILEGE TAX REPEALED

AN ACT to amend and reenact subdivision f of subsection 1 of section 57-38-01.2 and subdivision d of subsection 1 of section 57-38-01.3 of the North Dakota Century Code, relating to adjustments to taxable income for individuals and fiduciaries and to adjustments to taxable income for corporations; to repeal section 57-38-66 of the North Dakota Century Code, providing for a business and corporation privilege tax; and to provide an effective date.

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

SECTION 1. AMENDMENT.) Subdivision f of subsection 1 of section 57-38-01.2 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- f. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income. ~~However, these taxes, paid or accrued as the case may be during the applicable tax year, imposed by section 57-38-66 of this chapter shall be allowable as a deduction when determining taxable income for state income tax purposes.~~

\* SECTION 2. AMENDMENT.) Subdivision d of subsection 1 of section 57-38-01.3 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- d. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income. ~~However, these taxes, paid or accrued as the case may be during the applicable tax year, imposed by section 57-38-66 of this chapter shall be allowable as a deduction when determining taxable income for state income tax purposes.~~

SECTION 3. REPEAL.) Section 57-38-66 of the 1977 Supplement to the North Dakota Century Code is hereby repealed.

SECTION 4. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1981.

Approved March 23, 1979

- \* NOTE: Subdivision d of subsection 1 of section 57-38-01.3 was also amended by section 1 of Senate Bill No. 2260, chapter 605.

## CHAPTER 613

HOUSE BILL NO. 1475  
(Representatives Nicholas, Weber)  
(Senators Iszler, Barth)

### BEGINNING FARMER TAX INCENTIVES

AN ACT to provide for income tax deductions as incentives for landowners to sell or lease land to beginning farmers; and to provide an effective date.

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

SECTION 1. DEFINITIONS.) As used in this Act, unless the context otherwise requires:

1. "Agricultural purposes" means production of agricultural crops, livestock or livestock products, poultry or poultry products, and fruit or other horticultural crops.
2. "Beginning farmer" means any person who:
  - a. Is a resident of this state.
  - b. Receives more than half his annual income from farming, unless the person initially commences farming during the tax year for which a deduction will be claimed under this Act.
  - c. Intends to use any farmland that he wishes to purchase or rent for agricultural purposes.
  - d. Has had adequate training, by experience or education, in the type of farming operation which he wishes to begin on the purchased or rented land referred to in subdivision c.
  - e. Has, including his dependents and spouse, if any, a net worth of less than fifty thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

3. "Landowner" means any person owning land in North Dakota, except that any person who acquires such land for the purpose of obtaining the income tax deduction provided for in this Act shall not be deemed to be a landowner.

SECTION 2. INCOME TAX DEDUCTION FOR SALES TO BEGINNING FARMERS.) Any landowner who sells land consisting of twenty acres or more to a beginning farmer shall be entitled to a reduction in his taxable income for the year in which the sale occurred in an amount equal to fifty percent of any income realized and otherwise subject to state income taxes after consideration of any capital gains treatment, up to a maximum of fifty thousand dollars.

SECTION 3. RENT FROM BEGINNING FARMERS EXEMPT FROM INCOME TAX.) Fifty percent of any income received and otherwise subject to taxation for state income tax purposes resulting from the rental of any land consisting of twenty acres or more by a landowner to a beginning farmer under any agreement providing for a lease for at least three years shall be exempt from income taxes provided that no landowner may exclude more than twenty-five thousand dollars pursuant to this section in any tax year nor may any landlord claim this deduction for agreements with more than one beginning farmer for rentals on the same tract or parcel of land.

SECTION 4. CLAIM FOR INCOME TAX DEDUCTION FOR SALE OR RENTAL TO A BEGINNING FARMER.) In order for a taxpayer to qualify for the deductions provided in this Act, the taxpayer shall file with his state income tax return a notarized statement from the beginning farmer who purchased or rented land from him containing a list of the assets, debts, and net worth of the beginning farmer, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In order for a taxpayer to qualify for the deduction for rental income provided in section 3 of this Act, the taxpayer shall certify on his tax return that any rental arrangement with any other person was not canceled for the purpose of qualifying for this deduction.

SECTION 5. EFFECTIVE DATE.) The provisions of this Act shall be effective for taxable years beginning on or after January 1, 1979.

Approved March 23, 1979

## CHAPTER 614

HOUSE BILL NO. 1269  
(Committee on Finance and Taxation)  
(At the request of the Tax Department)

## ALLOCATION OF PUBLIC UTILITY INCOME

AN ACT to amend and reenact section 57-38.1-02 of the North Dakota Century Code, relating to the taxation of public utilities; and providing an effective date.

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

SECTION 1. AMENDMENT.) Section 57-38.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38.1-02. TAXPAYERS - APPLICABILITY.) Any taxpayer having income from business activity which is taxable both within and without this state, including a public utility, but other than activity as a financial organization ~~or public utility~~ or the rendering of purely personal service by an individual, shall allocate and apportion his net income as provided in this chapter.

SECTION 2. EFFECTIVE DATE.) This section shall become effective for taxable years beginning on or after January 1, 1979.

Approved March 7, 1979

## CHAPTER 615

HOUSE BILL NO. 1507  
(Koski, Conmy, Timm, Unhjem)

## RETAILER INCLUDES PUBLICLY OWNED FACILITY

AN ACT to amend and reenact subsection 5 of section 57-39.2-01 and subsection 4 of section 57-39.2-04 of the North Dakota Century Code, relating to the circumstances under which the receipts from educational, religious, or charitable activities are not exempt from the sales tax.

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

SECTION 1. AMENDMENT.) Subsection 5 of section 57-39.2-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "Retailer" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accommodations, and 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, or tickets or admissions to places of amusement, entertainment and athletic events including the playing of any machine for amusement or entertainment in response to the use of a coin, or magazines, or other periodicals, and any person engaged in operating or managing a publicly owned facility; 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 chapter; and shall include the state or any municipality furnishing steam, gas,

electricity, water, or communication service to members of the public in its proprietary capacity. For the purpose of this chapter retailer shall also include every clerk, auctioneer, agent or factor selling tangible personal property owned by any other retailer.

SECTION 2. AMENDMENT.) Subsection 4 of section 57-39.2-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. 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, unless the activities are held in a publicly owned facility, where the entire amount of net receipts is expended for educational, religious, or charitable purposes and the gross receipts derived by any public school district if such receipts are expended in accordance with section 15-29-13.

Approved March 27, 1979

## CHAPTER 616

HOUSE BILL NO. 1397  
(Nicholas, Crabtree)

## HOSPITAL SALES TAX EXEMPTION

AN ACT to amend and reenact subsection 24 of section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions for all sales to hospitals licensed by the state health department.

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

SECTION 1. AMENDMENT.) Subsection 24 of section 57-39.2-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 24, 1979

## CHAPTER 617

HOUSE BILL NO. 1290  
(Herman, Mushik)

## OSTOMY SUPPLIES SALES TAX EXEMPTION

AN ACT to amend and reenact subsection 26 of section 57-39.2-04 of the North Dakota Century Code, relating to the exemption of ostomy supplies from the sales tax.

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

SECTION 1. AMENDMENT.) Subsection 26 of section 57-39.2-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26. Gross receipts from sales of:

- a. Artificial devices individually designed, constructed, or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual.
- b. Artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body.
- c. Artificial teeth sold by a dentist.
- d. Eye glasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.
- e. Crutches and wheelchairs for the use of invalids and crippled persons.
- f. Devices and supplies designed or intended for ostomy care and management to include collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.

Approved March 3, 1979

## CHAPTER 618

SENATE BILL NO. 2196  
(Redlin)

## HANDICAPPED EQUIPMENT TAX EXEMPTIONS

AN ACT to create and enact three new subdivisions to subsection 26 of section 57-39.2-04 and three new subdivisions to subsection 12 of section 57-40.2-04 of the North Dakota Century Code, relating to exemptions from sales and use tax for sales of equipment used to modify motor vehicles, real property, and motorized implements of husbandry for use by physically disabled individuals; and to create and enact a new subsection to 57-40.3-04 of the North Dakota Century Code, relating to an exemption from the motor vehicle excise tax for certain sales to handicapped individuals.

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

SECTION 1.) Three new subdivisions to subsection 26 of section 57-39.2-04 of the 1977 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

Equipment, including manual control units, van lifts, van door opening units, and raised roofs, for attaching to or modifying a motor vehicle for use by a permanently physically disabled person.

Equipment, including elevators, dumb waiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling.

Equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.

SECTION 2.) Three new subdivisions to subsection 12 of section 57-40.2-04 of the 1977 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

Equipment, including manual control units, van lifts, van door opening units, and raised roofs, for attaching to or modifying a motor vehicle for use by a permanently physically disabled person.

Equipment, including elevators, dumb waiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling.

Equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by permanently physically disabled persons.

SECTION 3.) A new subsection to section 57-40.3-04 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Any motor vehicle which does not exceed ten thousand pounds gross weight and which is acquired by a permanently physically disabled, licensed driver who is restricted to operating only motor vehicles equipped with special controls to compensate for the disability, or by permanently physically disabled individuals who have either surrendered or who have been denied a driver's license because of a permanent physical disability, provided the individuals obtain from the state highway commissioner or his authorized representative a statement that the individual has such a restricted driver's license or has either surrendered or has not been issued a driver's license because of a permanent physical disability; a copy of the statement shall be attached to the application for registration of the title to the motor vehicle for which the exemption from tax under this chapter is claimed. Any motor vehicle acquired subject to this exemption must be disposed of either by transfer to another permanently physically disabled person or by a trade-in on another exempt sale or by a transfer involving a sale subject to sales or use tax before another motor vehicle can be acquired subject to the benefits of this exemption clause.

Approved March 22, 1979

## CHAPTER 619

HOUSE BILL NO. 1430  
(Richard, Pomeroy)

### EXCISE TAX EXEMPTION FOR ASSEMBLED VEHICLE

AN ACT to create and enact a new subsection to section 57-40.3-04 of the North Dakota Century Code, relating to an exemption from the motor vehicle excise tax for assembled motor vehicles.

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

SECTION 1.) A new subsection to section 57-40.3-04 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Any motor vehicle being registered pursuant to chapter 39-04 for the first time by a person who manufactured or assembled the motor vehicle for his own use.

Approved March 19, 1979

## CHAPTER 620

HOUSE BILL NO. 1111  
(Committee on Political Subdivisions)  
(At the request of the Bank of North Dakota)

## COUNTY LOAN APPLICATION APPROVAL

AN ACT to amend and reenact section 57-47-04 of the North Dakota Century Code, relating to the approval of loan applications by the Bank of North Dakota instead of the industrial commission.

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

SECTION 1. AMENDMENT.) Section 57-47-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-47-04. LEVY OF TAX TO REPAY LOAN - LIMITATION.) Upon the approval of an application for a loan by the ~~industrial--commission~~ Bank of North Dakota, 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 loan 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. The 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.

Approved February 8, 1979

## CHAPTER 621

SENATE BILL NO. 2338  
(Thane, Nelson, Smykowski, Strinden)

## FUEL TAX LOWERED FOR GASOHOL

AN ACT to amend and reenact section 57-54-08 of the North Dakota Century Code, to reduce the motor vehicle fuel tax on sales of gasohol; and declaring an emergency.

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

\* SECTION 1. AMENDMENT.) Section 57-54-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-08. TAX IMPOSED ON MOTOR VEHICLE FUELS.) There is hereby imposed a tax of eight cents per gallon on all motor vehicle fuel sold or used in this state. Provided, however, the tax imposed by this section on unleaded gasoline sold which contains a minimum ten percent blend of an agricultural ethyl alcohol whose purity is at least ninety-nine percent alcohol shall be four cents per gallon. The tax imposed by this section shall be collected by the dealer from the consumer on all sales. Sales of fuel in the original package may be made to a licensed dealer, and he shall have the option of collecting the tax imposed by this chapter, but on sales in the original package to persons other than licensed dealers, the dealer shall be liable for the tax thereon.

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

Approved March 19, 1979

\* NOTE: Section 57-54-08 was also amended by section 9 of House Bill No. 1384, chapter 100.

## CHAPTER 622

SENATE BILL NO. 2432  
(Lee)

## DEFINITION OF MOBILE HOME

AN ACT to amend and reenact section 57-55-01 of the North Dakota Century Code, relating to the definition of mobile home for the purpose of taxation.

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

SECTION 1. AMENDMENT.) Section 57-55-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-01. MOBILE HOME DEFINED.) For the purposes of this chapter, "mobile home" shall mean any nonself-propelled vehicular structure built on a chassis, having a length of twenty-seven feet or more, ordinarily designed for human living quarters, either on a temporary or permanent basis, and used as ~~the~~ a residence or place of business of the owner or occupant.

Approved April 7, 1979

## CHAPTER 623

HOUSE BILL NO. 1414  
(Kennelly)

## MOBILE HOME TAX PENALTIES AND INTEREST

AN ACT to amend and reenact section 57-55-03 of the North Dakota Century Code, relating to interest due on delinquent mobile home tax; and to amend and reenact section 57-55-11 of the North Dakota Century Code, relating to the collection of the mobile home tax.

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

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

57-55-03. WHEN TAXES BECOME DUE AND DELINQUENT - PENALTY.) The tax imposed in this chapter shall become due and payable on January tenth of each year or ten days after such mobile home is purchased or first moved into this state. If the tax due for the entire year is paid in full on or before February fifteenth, the county treasurer shall allow a five percent discount. A five percent discount shall also be allowed by the county treasurer if a mobile home is purchased or moved into this state after January tenth of each year if the tax imposed thereon by this chapter is paid in full within ten days after it is purchased or moved into this state. The tax imposed by this chapter may be payable in two equal installments if the amount of the tax due is forty dollars or more. The first installment shall become due on January tenth and shall become delinquent on the first day of March following and, if not paid on or before said date, shall be subject to a penalty of two percent, and on April first following, an additional penalty at the rate of two percent, and on May first following, an additional penalty of two percent, and an additional penalty of two percent on June first following. The second installment shall become due on or before June first and shall become delinquent on the first day of July following and, if the second installment is not paid on or before that date, it shall be subject to a penalty of two percent, and on August first following, an additional penalty of two percent, and on September first following, an additional two percent, and on October first following, an additional two percent. If any tax remains due after the January first following, interest shall be

charged at the monthly rate of one-half percent of the tax due for each month or fraction thereof until the aforesaid tax and penalty has been paid in full.

SECTION 2. AMENDMENT.) Section 57-55-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-11. COLLECTION - ENFORCEMENT.)

1. The director of tax equalization shall make an inspection of each mobile home park, lot, or other place in which mobile homes are located, for the purpose of determining whether the provisions of this chapter are being complied with. If he shall determine that any person is not complying with the provisions of this chapter, he shall give such person a warning that if such person fails to comply within ten days after the issuance of such warning, the director of tax equalization ~~will~~ may begin civil action against such person. In the ~~event~~ alternative, if the director of tax equalization shall determine that there are mobile homes in his county belonging to transients or nonresidents who have failed to comply with the provisions of this chapter, and in his opinion the taxes will be uncollectible if immediate action is not taken, he shall notify the county sheriff. The county sheriff shall immediately, and in no event later than five days after receiving such notification, commence proceedings as provided by law to collect the taxes ~~and~~, penalties, and interest, if any, which are due.
2. Before a mobile home is moved from its existing location, the owner must have a current year's mobile home decal displayed thereon or must display on the mobile home during transport a tax release statement obtained from the county director of tax equalization indicating that all taxes, penalties and interest levied against the mobile home have been paid. A violation of this provision shall constitute an infraction.

Approved March 13, 1979

## CHAPTER 624

SENATE BILL NO. 2047  
(Legislative Council)  
(Interim Budget Section)

## PERSONAL PROPERTY TAX REPLACEMENT PAYMENTS

AN ACT to amend and reenact section 57-58-01 of the North Dakota Century Code, relating to due dates of payments for the personal property tax replacement.

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

SECTION 1. AMENDMENT.) Section 57-58-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-58-01. DISTRIBUTION TO COUNTIES AND LOCAL SUBDIVISIONS.) It is hereby provided that any political subdivision which has an existing bonded indebtedness for which a tax levy must be made in 1970 or any year thereafter, shall reduce its levy in each such year for current operating purposes by the amount which its tax levy on taxable property in that year for retirement of the bonded indebtedness is increased because of the exemption of personal property by subsection 25 of section 57-02-08. On or before February 1, 1971, the county auditor of each county shall certify to the state tax commissioner the total amount of taxes levied in the year 1968 for the state, county, cities, park boards, school districts, airport authorities, townships, and all other units of government having the authority to levy taxes, and levies voted by the people, new or present levies increased by legislative action of such county on those items of personal property exempt under the provisions of section 57-02-08, and, in addition, the total valuation of real estate and taxes levied on real estate for the year 1968. On or before ~~March~~ June 1, ~~1971~~ 1980, and each year thereafter, the state tax commissioner shall certify for payment to the state treasurer an amount, for payment by the state treasurer to each county ~~equal to fifty percent of the amount~~, determined to be due such county based upon the personal property taxes levied in the year 1968 for the political subdivisions herein mentioned on the items of personal property exempt from the personal property tax under the provisions of section 57-02-08, the per capita school tax under the provisions of former section 57-15-23\*, and the grain tax under the provisions of former chapter 57-03\*, together with any adjustments to be made ~~according to~~ in the manner hereinafter

provided. ~~The remaining fifty percent due each county shall be paid on or before June 1, 1971, and each year thereafter.~~ Within sixty days after the receipt of the revenue as provided by this section, the county treasurer shall allocate and remit to the county, cities, park boards, school districts, airport authorities, townships, and all other units of government having the authority to levy taxes that amount of revenue which is received from the state in the same ratio as he would have distributed the revenue from the personal property tax, adjusting such amount by any increase or decrease in real property taxes as levied by each taxing authority according to the formula hereinafter provided. Any amount that would be apportioned and credited to the retirement of a bonded indebtedness existing in 1970 for which a tax levy was made in 1970 and in any year thereafter, shall be credited to the general fund of the political subdivision. In the years after 1971, payments to the counties under this section shall be made based upon ninety-five percent of such payment for 1971 together with a growth factor which shall be based upon the dollar amount of increase or decrease in real property taxes levied within each county. For each seven dollar increase in real property taxation within a county, the state shall contribute an additional one dollar over that amount which equals ninety-five percent of such payment in the base year. For each seven dollar decrease in real property taxation within a county, the state shall contribute one dollar less than that amount which equals ninety-five percent of such payment in the base year.

On or before ~~March~~ June 1, ~~1971~~ 1980, and each year thereafter, the state tax commissioner shall certify to the state treasurer the amount determined to be due to the state based upon the personal property taxes levied in the year 1968 for the North Dakota state medical center. ~~In the years after 1971 the~~ The amount so certified shall be computed in accordance with the formula provided in this section for computing the amounts to be certified and paid to the counties. The state treasurer upon receiving the certification from the tax commissioner shall transfer from the general fund to the credit of the North Dakota state medical center the amount so certified.

Any political subdivision which levied taxes on taxable property in the year 1970 for a specific fund or purpose for which a levy was not made by it in the year 1968 shall be entitled to a distribution of revenue from the state in the year 1971 for any such levy. The amount of such distribution shall be determined as follows: the county auditor shall certify to the state tax commissioner as soon as possible after the effective date of this Act the amount of each such levy made by and spread for each political subdivision on taxable real property in the county in the year 1970; the tax commissioner shall forthwith determine the correctness of such amounts and certify to the state treasurer for immediate payment to the county an amount that is determined by dividing the total of such levies made and spread in 1970 on taxable real property in the county by the growth factor that is provided in the first paragraph of this section; the county treasurer within fifteen days after the receipt of such revenue from the state

treasurer shall allocate and remit to each political subdivision its proportionate amount of that revenue.

If the classification of any property for taxation purposes is changed from real to personal property or from personal to real property because of legislative or judicial action, the county auditor of the county in which the property is located shall forthwith certify to the tax commissioner the amount of real estate taxes or personal property taxes that was levied on all such property by each taxing district in the year 1968 and in any other year thereafter that the tax commissioner may request. The tax commissioner, in determining the amount to be certified to the state treasurer for payment to the county pursuant to this section, shall adjust the amounts of taxes certified by the county auditor as levied on real property and on personal property in 1968 and in any other year as may be necessary by adding to or subtracting from each such amount the taxes on the reclassified property so that the distribution by the state to the county will be determined as though such property had been taxed in 1968 and all later years in the classification into which it was reclassified.

Approved March 21, 1979

## CHAPTER 625

HOUSE BILL NO. 1485  
(Representatives A. Hausauer, Nicholas, Opedahl)  
(Senators Albers, Farrington, Redlin)

## COAL CONVERSION FACILITY TAX ON OPERATOR

AN ACT to create and enact a new subsection to section 57-60-01 of the North Dakota Century Code, relating to the tax on coal conversion facilities in this state; to amend and reenact subsection 4 of section 57-33.1-01 of the North Dakota Century Code, relating to the taxation of cooperative electrical generating plants and to amend and reenact section 57-60-02 of the North Dakota Century Code relating to tax on coal conversion facilities in this state.

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

SECTION 1. AMENDMENT.) Subsection 4 of section 57-33.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Electrical energy generating or generation plant" shall mean all buildings, fixtures, machinery, tools, appliances, or all other things, located within a confined site in the state of North Dakota, used, useful, or necessary in the generation of electrical energy and which has at least one single electrical energy generation unit with a capacity of one hundred thousand kilowatts or more; which property and any transmission lines with a carrying capacity of two hundred thirty kilovolts or larger and related substations owned or operated by cooperatives subject to the provisions of this chapter and carrying energy the gross receipts of which are subject to the tax imposed by subsection 1 of section 57-33.1-02, shall be classified as personal property; and

SECTION 2.) A new subsection to section 57-60-01 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

"Operator" means any person owning, holding or leasing a coal conversion facility and conducting the conversion of coal into the products of such facilities.

SECTION 3. AMENDMENT.) Section 57-60-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-02. IMPOSITION OF TAXES.) Each There is hereby imposed upon the operator of each coal conversion facility shall--pay an annual tax for the privilege of producing products of such coal conversion facility. The rate of the tax shall be computed as follows:

1. For all coal conversion facilities, other than electrical generating plants and coal gasification plants as provided in subsections 2 and 3 of this section, the tax shall be measured by the gross receipts derived from such facility for the preceding calendar year and shall be in the amount of two and one-half percent of such gross receipts;
2. For electrical generating plants, the tax shall be at a rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale; and
3. For coal gasification plants, the tax shall be either the amount provided in subsection 1 or ten cents on each one thousand cubic feet of synthetic natural gas produced for the purpose of sale, whichever is greater.

Approved March 19, 1979

## CHAPTER 626

HOUSE BILL NO. 1257  
(Representatives Freborg, Gackle, A. Hausauer)  
(Senators Melland, Goodman, Jacobson)

### COAL SEVERANCE TAX AND DEVELOPMENT IMPACT

AN ACT to provide for a severance tax upon all coal mined; to provide procedures for the imposition, collection, and administration of such tax; to provide for the allocation of moneys collected; to provide for impact loans to be administered by the board of university and school lands; and to provide a penalty.

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

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

1. Eighty-five cents per ton of two thousand pounds; and
2. For every four point increase in the index of wholesale prices for all commodities prepared by the United States department of labor, bureau of labor statistics, the amount of the severance tax provided in subsection 1 shall be increased one cent per ton of two thousand pounds. For the purposes of this computation, a fractional point increase shall be disregarded if less than one-half point and treated as one full point if one-half point or more. The state tax commissioner shall determine such increases based upon increases in the wholesale price index from the level of such index as of June 1979 to the level of such index as of December 1979 and of June and December of each year thereafter, and any increases based upon the level of the index in June shall be effective on and after the following July first and any increases based upon the level of the index in December shall be effective on and after the following January first. At no time shall the amount of the severance tax be reduced. If the wholesale price index declines, the severance tax shall remain at the highest level determined prior to such decline, and

shall remain at such level until further increases are warranted because of further increases in the wholesale price index beyond the point at which the last increase was determined.

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

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

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

SECTION 4. TAX COMMISSIONER TO COMPUTE TAX ON INCORRECT RETURNS.) The state tax commissioner shall have the power and authority to ascertain and determine whether or not any report or remittances filed with him are correct, and if the owner or operator has made an untrue or incorrect report or remittance, the commissioner shall ascertain the correct amount of taxes due, and give immediate notice to the owner or operator filing the incorrect return or remittance. Any coal mine operator or owner receiving notice from the tax commissioner that he has filed an incorrect

return or remittance shall remit the tax assessed by the commissioner within fifteen days of such notice. Any owner or operator aggrieved by a decision of the tax commissioner may make application in writing within fifteen days of notification for a hearing which shall be granted not later than fifteen days after receipt of the application. The tax commissioner may grant or reject, in whole or in part, the contentions of the owner or operator and upon conclusion of the hearing shall proceed to make a final determination of taxes due. Such taxes assessed by the commissioner shall become delinquent five days after the conclusion of the hearing, except in such cases where an owner or operator shall appeal such assessment to the district court of Burleigh County, in which case they shall become delinquent five days following final judicial determination.

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

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

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

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

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

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

SECTION 11. DEFINITIONS.) As used in sections 11 through 13 of this Act and in any other legislation enacted by the forty-sixth legislative assembly providing for a coal development impact aid program, unless the context or subject matter otherwise requires:

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

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

1. Thirty-five percent shall be credited to a special fund in the state treasury for distribution through grants by the coal development impact office to impacted cities, counties, school districts, and other taxing districts, subject to appropriation by the legislative assembly.

2. Fifteen percent shall be credited to a special fund in the state treasury to be held in trust to be administered by the board of university and school lands for loans to impacted counties, cities, and school districts as provided in section 13 of this Act. The board of university and school lands shall have full authority to invest such funds as are not loaned as provided in this chapter and may consult with the state investment board as provided by law. The income, including interest payments on loans, from such trust shall be deposited in the state's general fund. Loan principal payments shall be redeposited in the trust fund. Such trust fund shall be perpetual and held in trust as a replacement for depleted natural resources subject to the provisions of this chapter.
3. Twenty percent shall be allocated to the coal-producing counties and shall be distributed among such counties in such proportion as the number of tons of coal severed in each county bears to the total number of tons of coal severed in the state during such quarterly period. Such allocations shall be apportioned as follows:
  - a. Thirty percent shall be paid by the county treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census;
  - b. Forty percent shall be deposited by the county treasurer in the county general fund to be used for general governmental purposes; and
  - c. Thirty percent shall be apportioned by the county treasurer to school districts within the county on the average daily membership basis, as certified to him by the county superintendent of schools.
4. Thirty percent shall be deposited in the state's general fund.

SECTION 13. LOANS - TERMS AND CONDITIONS - REPAYMENT.) The board of university and school lands is authorized to make loans to impacted counties, cities, and school districts from moneys deposited in the trust fund established by subsection 2 of section 12 of this Act. Loans may be made for any purpose for which a grant may be made pursuant to this chapter, but before making any loan the board of university and school lands shall receive the recommendation of the coal development impact office. The board of university and school lands shall prescribe the terms and conditions of such loans within the provisions of this chapter and shall require a warrant executed by the governing body of the county,

city, or school district as evidence of such loan. The warrants shall bear interest at a rate not to exceed six percent. The warrants shall be payable only from the allocations of moneys from the coal development fund to the borrowing county, city, or school district and shall not constitute a general obligation of the county, city, or school district nor shall such loans be considered as indebtedness of the county, city, or school district. The terms of the loan shall provide that not less than ten percent of each allocation made to the borrowing county, city, or school district pursuant to this chapter shall be withheld by the state treasurer to repay the principal of the warrants and the interest thereon. The amount withheld by the state treasurer as payment of interest shall be deposited in the general fund and the amount withheld by the state treasurer as payment of principal shall be remitted to the board of university and school lands and deposited by the board in the trust fund provided for in subsection 2 of section 12 of this Act. The warrants executed by the county, city, or school district shall have all of the qualities and incidents of negotiable paper, and shall not be subject to taxation by the state of North Dakota or by any political subdivision thereof.

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

Not approved or disapproved by the Governor

Filed April 12, 1979

## CHAPTER 627

HOUSE BILL NO. 1402  
(A. Hausauer)

## SEVERANCE TAX REVENUE ALLOCATION

AN ACT to amend and reenact subsection 3 of section 12 of House Bill No. 1257, as approved by the forty-sixth legislative assembly, relating to the allocation of revenues from the coal severance tax to counties.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 12 of House Bill No. 1257, as approved by the forty-sixth legislative assembly, is hereby amended and reenacted to read as follows:

3. Twenty percent shall be allocated to the coal-producing counties and shall be distributed among such counties in such proportion as the number of tons of coal severed in each county bears to the total number of tons of coal severed in the state during such quarterly period. Such allocations shall be apportioned as follows:
  - a. If the tipple of a currently active coal mining operation in a county is not within fifteen miles of another county in which no coal is mined, the revenue apportioned according to this subsection shall be allocated as follows:
    - (1) Thirty percent shall be paid by the county treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census~~7~~.
  - b- (2) Forty percent shall be deposited by the county treasurer in the county general fund to be used for general governmental purposes~~7~~and.

- e- (3) Thirty percent shall be apportioned by the county treasurer to school districts within the county on the average daily membership basis, as certified to him by the county superintendent of schools.
- b. If the tipple of a currently active coal mining operation in a county is within fifteen miles of another county in which no coal is mined, the revenue apportioned according to this subsection shall be allocated as follows:
- (1) Thirty percent shall be paid by the county treasurer of the coal-producing county to the incorporated cities of that county and to any city of a non-coal-producing county when any portion of the city lies within fifteen miles of the tipple of a currently active coal mining operation in the coal-producing county, based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-42 in case of a city incorporated subsequent to such census.
  - (2) Forty percent shall be divided by the county treasurer of the coal-producing county between the general fund of the coal-producing county and the general fund of any non-coal-producing county when any portion of the latter county lies within fifteen miles of the tipple of a currently active coal mining operation in the coal-producing county. The non-coal-producing county portion shall be based upon the ratio which the assessed valuation of all quarter sections of land in that county, any portion of which lies within fifteen miles of the tipple of a currently active coal mining operation, bears to the combined assessed valuations of all land in the coal-producing county and the quarter sections of land in the non-coal-producing county within fifteen miles of the tipple of the currently active coal mining operation. It shall be the duty of the county director of tax equalization of the coal-producing county to certify to the treasurer of the same county the number of quarter sections of land in the non-coal-producing counties which lie at least in part within fifteen miles of the tipple of a currently active coal mining operation and their assessed valuations.
  - (3) Thirty percent shall be apportioned by the county treasurer of the coal-producing county to school districts within that county and to school

districts in adjoining non-coal-producing counties when a portion of those school districts' land includes any of the quarter sections of land certified by the director of tax equalization to the county treasurer to be eligible to share county funds as provided for in paragraph 2 of subdivision b above. The county superintendent of the non-coal-producing counties shall certify to the county treasurer of the coal-producing county the number of students actually residing on these quarter sections lying outside the coal-producing county and each school district in non-coal-producing counties shall receive a portion of the money under this paragraph based upon the ratio of the number of children residing on quarter sections of that school district within the fifteen mile radius of the tipple of a currently active coal mining operation to the total number of school children from the coal-producing county combined with all the school children certified to be living on quarter sections within fifteen miles of the tipple of a currently active coal mining operation in the coal-producing county.

Approved April 7, 1979

## CHAPTER 628

HOUSE BILL NO. 1304  
(Strinden)

## COAL DEVELOPMENT IMPACT OFFICE

AN ACT to create and enact two new sections to any legislation enacted by the forty-sixth legislative assembly providing for a coal development impact aid program, creating the coal impact office and setting out the powers and duties of the director; to amend and reenact sections 57-62-04 and 57-62-05 of the North Dakota Century Code, providing for a coal development impact office and setting forth the powers and duties of the director.

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

SECTION 1.) A new section to any legislation enacted by the forty-sixth legislative assembly providing for a coal development impact aid program is hereby created and enacted to read as follows:

COAL DEVELOPMENT IMPACT OFFICE - APPOINTMENT OF DIRECTOR.)  
There is hereby created a coal development impact office, the director of which shall be appointed by and serve at the pleasure of the board of university and school lands. The director's appointment shall be confirmed by the senate. The director shall have knowledge of state and local government and shall have experience or training in the fields of taxation and accounting. The salary of the director shall be set by the board of university and school lands within the limits of legislative appropriations. The director may employ such other persons as may be necessary and may fix their compensation within the appropriation made for such purpose. The board of university and school lands shall fill any vacancy in the position of director in the same manner as listed above and, in addition, shall serve as an appeals board under rules promulgated by the board of university and school lands to reconsider grant applications for aid under this chapter which have been denied by the director. All action by the board of university and school lands, including appointment of a director, shall be by majority vote.

SECTION 2.) A new section to any legislation enacted by the forty-sixth legislative assembly providing for a coal development impact aid program is hereby created and enacted to read as follows:

POWERS AND DUTIES OF COAL DEVELOPMENT IMPACT DIRECTOR.) The coal development impact director shall:

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

SECTION 3. AMENDMENT.) Section 57-62-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-62-04. COAL DEVELOPMENT IMPACT OFFICE - COAL DEVELOPMENT IMPACT COMMISSION - APPOINTMENT OF DIRECTOR.) There is hereby created ~~in the office of the governor~~ a coal development impact office. ~~The~~, the director of which shall be appointed by and shall serve at the pleasure of the ~~governor~~ board of university and school lands. The director's appointment shall be confirmed by the senate. The director shall have knowledge of state and local government and shall have experience or training in the fields of taxation and accounting. The salary of the director shall be set by the ~~governor~~ board of university and school lands within the limits of legislative appropriations. The director may employ such other persons as may be necessary and may fix their compensation within the appropriation made for such purpose. The board of university and school lands shall fill any vacancy in the position of director in the same manner as listed above and, in addition, shall serve as an appeals board under rules promulgated by the board of university and school lands to reconsider grant applications for aid under this chapter which have been denied by the director. All action by the board of university and school lands, including appointment of a director, shall be by majority vote.

SECTION 4. AMENDMENT.) Section 57-62-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-62-05. POWERS AND DUTIES OF COAL DEVELOPMENT IMPACT OFFICE DIRECTOR.) The coal development impact office director shall:

1. Develop a plan for the assistance, through financial grants for services and facilities, of counties, cities, school districts, and other political subdivisions in a coal development impact area.
  2. ~~Advise, study, recommend, and report to the governor and the legislative assembly on the impact to the state and the political subdivisions of the state resulting from coal development.~~
  3. Establish procedures and provide proper forms to political subdivisions for use in making application for funds for impact assistance as provided in this chapter.
4. 3. Make grants to counties, cities, school districts, and other taxing districts as provided in this chapter and within the appropriations made for such purposes. In determining the amount of impact grants for which political subdivisions are eligible, the amount of revenue to which such political subdivisions will be entitled from taxes upon the real property of coal development plants and from other tax or fund distribution formulas provided by law shall be considered.

SECTION 5. LEGISLATIVE INTENT AND GUIDELINES ON IMPACT GRANTS.) The legislative assembly intends that the moneys appropriated to, and distributed by, the coal development impact office for grants are to be used by grantees to meet initial impacts affecting basic governmental services, and directly necessitated by coal development impact. As used in this section, "basic governmental services" do not include activities relating to marriage or guidance counseling, services or programs to alleviate other sociological impacts, or services or facilities to meet secondary impacts. All grant applications and presentations to the coal development impact office shall be made by an appointed or elected government official.

Not approved or disapproved by the Governor

Filed April 13, 1979