

TAXATION

CHAPTER 598

HOUSE BILL NO. 1657
(Strinden)

(Approved by the Committee on Delayed Bills)

HOME RULE CITY TAX COLLECTION AGREEMENTS

AN ACT to amend and reenact section 57-01-02.1 of the North Dakota Century Code, relating to 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 North Dakota Century Code is hereby amended and reenacted to read as follows:

57-01-02.1. 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.
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~~ monthly, shall pay to the city auditors of the several cities the money to which they are entitled under this section.
3. 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 27, 1985

* NOTE: Section 57-01-02.1 was also amended by section 14 of House Bill No. 1083, chapter 152.

CHAPTER 599

SENATE BILL NO. 2294
(Wright)

RESIDENTIAL PROPERTY DEFINED

AN ACT to amend and reenact subsection 12 of section 57-02-01 of the North Dakota Century Code, relating to the definition of residential property.

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

SECTION 1. AMENDMENT. Subsection 12 of section 57-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12. "Residential property" means all property, or portions of property, used by an individual or group of individuals as a dwelling, including property upon which a mobile home is located but not including hotel and motel accommodations required to be licensed under chapter 23-09 nor structures providing living accommodations for four or more separate family units nor any tract of land upon which four or more mobile homes are located.

Approved March 22, 1985

CHAPTER 600

SENATE BILL NO. 2409
(Dotzenrod, Stromme, D. Meyer)

FARM STRUCTURES PROPERTY TAX EXEMPTION

AN ACT to amend and reenact subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the exemption of farm structures from property taxes; and to provide an effective date.

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

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

15. a. All farm structures, and improvements located on agricultural lands. This subsection shall be construed to exempt farm buildings and improvements only, and shall not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence. Any structure or structures used in connection with a retail or wholesale business other than farming, even though situated on agricultural land, shall not be exempt under this subsection.
- b. It is the intent of the legislative assembly that this exemption as applied to a residence shall be strictly construed and interpreted to exempt only a residence which is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption shall not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:
 - (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other

similar operations normally associated with farming and ranching, with not less than fifty percent of his annual net income.

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

shall be stated in the written statement that their net income from farming activities was, or was not, fifty percent or more of their combined net income from all sources.

- (6) In addition to any of the provisions of this subsection or any other provision of law, a residence situated on agricultural land is not exempt for the year if it is occupied by an individual engaged in farming who had nonfarm income, including that of a spouse if married, of more than ~~twenty~~ thirty thousand dollars during each of the three preceding calendar years. The provisions of this paragraph do not apply to an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which he lives and for which the exemption is claimed.

SECTION 2. EFFECTIVE DATE. The provisions of this Act are effective for taxable years beginning after December 31, 1984.

Approved March 27, 1985

CHAPTER 601

HOUSE BILL NO. 1256
(Unhjem)

NEW RESIDENTIAL PROPERTY TAX EXEMPTION

AN ACT to create and enact two new subsections to section 57-02-08 of the North Dakota Century Code, providing exemptions from property taxes for new single family residential property and condominiums and townhouses which meet certain qualifications; and to provide an effective date and an expiration date.

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

SECTION 1. Two new subsections to section 57-02-08 of the North Dakota Century Code are hereby created and enacted to read as follows:

Up to seventy-five thousand dollars of the true and full value of all new single family residential property, exclusive of the land on which it is situated, shall be exempt from taxation for the two taxable years subsequent to the taxable year in which construction is begun if all of the following conditions are met:

- a. The governing body of the city, for property within city limits, or the governing body of the county, for property outside city limits, has approved the exemption of the property by resolution.
- b. Special assessments and taxes on the property upon which the residence is situated are not delinquent.
- c. The first owner after the builder resides on the property, or the builder still owns the property.

For purposes of this subsection "single family residential property" does not include condominium or townhouse property.

Up to seventy-five thousand dollars of the true and full value of each unit of all new condominium and townhouse

residential property, exclusive of the land on which it is situated, shall be exempt from taxation for the two taxable years subsequent to the taxable year in which construction is begun if all of the following conditions are met:

- a. The governing body of the city, for property within city limits, or the governing body of the county, for property outside city limits, has approved the exemption of the property by resolution.
- b. Special assessments and taxes on the property upon which the condominium or townhouse is situated are not delinquent.
- c. The first owner, after the builder, who resides in the condominium or townhouse unit still owns the property.

SECTION 2. EFFECTIVE DATE AND EXPIRATION DATE. This Act is effective for taxable years beginning after December 31, 1984, for property upon which construction is begun after March 31, 1985, and completed before January 1, 1987, and is ineffective after December 31, 1989.

Not approved or disapproved by the Governor

Filed March 15, 1985

CHAPTER 602

HOUSE BILL NO. 1600
(Schmidt)

MINERALS EXEMPT FROM PROPERTY TAXES

AN ACT to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, to provide that certain minerals are exempt from ad valorem property taxes; and to provide an effective date.

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 North Dakota Century Code is hereby created and enacted to read as follows:

Minerals in place in the earth which at the time of removal from the earth are then subject to taxes imposed under chapter 57-51 or chapter 57-61.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1984.

Approved March 22, 1985

CHAPTER 603

SENATE BILL NO. 2491
(Senators Tennesof, Kilander, Christensen)
(Representative A. Hausauer, Moore, Wold)

CHURCH PARKING LOT EXEMPTION

AN ACT to amend and reenact subsection 9 of section 57-02-08 of the North Dakota Century Code, relating to the exemption from taxation of property of religious corporations or organizations; and to provide an effective date.

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

SECTION 1. AMENDMENT. Subsection 9 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. All real property, not exceeding two acres [.81 hectares] in extent, owned by any religious corporation or organization, upon which there is a building used for the religious services of such organization, or upon which there is a dwelling with usual outbuildings, intended and ordinarily used for the residence of the bishop, priest, rector, or other minister in charge of such services, shall be deemed to be property used exclusively for religious services, and exempt from taxation, whether such real property consists of one tract or more. All real property owned by any religious corporation or organization and used as a parking lot by persons attending religious services is exempt from taxation. All taxes assessed or levied on any such property, while the same was so used for religious purposes, are void.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1984.

Approved April 11, 1985

CHAPTER 604

SENATE BILL NO. 2250
(Committee on Finance and Taxation)
(At the request of the Tax Commissioner)

TAXATION REVISIONS

AN ACT to amend and reenact subsection 1 of section 11-10.1-05, subsection 1 of section 57-02-08.1, sections 57-02-32, 57-02.1-01, 57-06-05, subsection 3 of section 57-12-06, subdivision c of subsection 3 of section 57-13-04, sections 57-20-01, 57-20-20, 57-23-04, 57-23-08, subsection 3 of section 57-26-03, sections 57-28-18, 57-32-01, 57-32-04, 57-32-05, 57-33-03, subsection 1 of section 57-33-04, sections 57-55-04.1, 57-60-02, subsection 3 of section 57-62-02 of the North Dakota Century Code, relating to taxation and removal of references to the personal property tax, to the year in which totally disabled persons are eligible for property tax credits, to eliminate an inconsistent definition of value for payments made by the game and fish department in lieu of property taxes, to the removal of references to sleeping car and carline companies, to the correction of an inaccurate statutory cross-reference, to the clarification of the percentage changes in assessments made by the state board of equalization, to a clarification of the date of delinquency for real property taxes, to remove references to the tax appeals board, to proceedings for the abatement of taxes, to interest due on a subsequent tax sale certificate, to references to the assessment date for property taxes, to the definition of gross receipts for the taxation of rural electric cooperatives, to the payment date of the privilege tax on coal conversion facilities, and to the method of allocation of moneys in the coal development fund; and to repeal section 57-02-23, subsection 5 of section 57-06-02, subsection 4 of section 57-06-14, subsection 13 of section 57-15-10, sections 57-23-03, 57-23.1-01, 57-23.1-02, 57-31-01, 57-31-02, and 57-31-03 of the North Dakota Century Code, relating to taxation and the removal of references to the personal property tax, to the removal of statutory references to sleeping car and carline companies, to remove references to the tax appeals board, to the proceedings for the abatement of property taxes, to tax levy limitations with respect to taxes levied for a city employees' pension plan, and to the taxation of transient stocks of merchandise.

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

SECTION 1. AMENDMENT. Subsection 1 of section 11-10.1-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The county director of tax equalization shall have the power, duty, and responsibility to call upon and confer with township and city assessors in the county and to instruct them in the preparation and proper use of land maps and property record cards, the preparation of assessment books, the changes in assessment laws and regulations, the determination of proper standards of value, the use of proper classifications of property, and the authority to require attendance at meetings, to the end that a uniform assessment of all ~~personal~~ and real property in the county will prevail.

* SECTION 2. AMENDMENT. Subsection 1 of section 57-02-08.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 in the year in which the tax was levied, as certified by a physician selected by the local governing body, with an income of ten 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 taxable 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 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 five thousand five hundred dollars, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of two thousand dollars of taxable valuation.
 - b. If the person's income is in excess of five thousand five hundred dollars and not in excess of six thousand five hundred dollars, a reduction of eighty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand six hundred dollars of taxable valuation.

* NOTE: Section 57-02-08.1 was also amended by section 1 of Senate Bill No. 2289, chapter 605, and amended by section 1 of Senate Bill No. 2347, chapter 607, and amended by section 1 of Senate Bill No. 2466, chapter 606.

- c. If the person's income is in excess of six thousand five hundred dollars and not in excess of seven thousand five hundred dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand two hundred dollars of taxable valuation.
- d. If the person's income is in excess of seven thousand five hundred dollars and not in excess of eight thousand five hundred dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of eight hundred dollars of taxable valuation.
- e. If the person's income is in excess of eight thousand five hundred dollars and not in excess of ten thousand dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of four hundred dollars of taxable 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 the person is sixty-five years of age or older or is permanently and totally disabled, that such income, including that of any dependent, as determined in this chapter does not exceed ten thousand dollars per annum and that the value of the person's assets, excluding the value of the person's "homestead" as defined in section 47-18-01, does not exceed fifty thousand dollars. 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.

SECTION 3. AMENDMENT. Section 57-02-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-32. Auditor to furnish tax list. The auditor of each county shall make and transmit to the township clerk of each civil township within such county, on the first day of March of each year, a copy of the tax list of such township for the preceding year showing the owner and description of each piece or parcel of land assessed and the valuation thereof, and a list of the valuation of personal property assessed to each person or corporation within such township.

SECTION 4. AMENDMENT. Section 57-02.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02.1-01. ~~Definitions~~ Definition. As used in this chapter, unless the context or subject matter otherwise clearly indicates-

- 1- "~~Property~~, "property subject to valuation" means real property owned by the state or real property leased or held by lease or license from the United States or a political subdivision of this state, and controlled by the state game and fish department but shall not include any land leased by such department if such land is being assessed for ad valorem taxation to the owner.
- 2- "~~Value or valuation~~" means the true and full value of the usual selling price at a private sale between a willing buyer and a willing seller at the place where the property to which the term is applied is located as assessed and equalized; ~~less the valuation of any improvements to real property and of inundated land-~~

SECTION 5. AMENDMENT. Section 57-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-06-05. Annual assessment. The state board of equalization, at its annual meeting in August, shall assess the franchises and all operative property of ~~sleeping car~~, telephone, telegraph, power, gas, pipeline, and other companies, covered by this chapter, with reference to the value thereof on the first day of January of that year.

SECTION 6. AMENDMENT. Subsection 3 of section 57-12-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The owner of any separate piece or parcel of real estate that has been assessed may appeal the assessment thereon to the state board of equalization as provided in subdivision a of subsection ~~4~~ 3 of section 57-13-04; provided, however, that such owner has first appealed the assessment to the local equalization board of the taxing district in which the property was assessed and to the county board of equalization of the county in which the property was assessed.

SECTION 7. AMENDMENT. Subdivision c of subsection 3 of section 57-13-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- c. The percentage of reduction or increase made by the board under this subsection in any assessment shall be even a whole numbered amount and not a fractional amount.

SECTION 8. AMENDMENT. Section 57-20-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-01. Real and personal property taxes - When due and delinquent - Penalties. All real and personal property taxes and yearly installments of special assessment taxes shall become due on the first day of January following the year for which the taxes were levied. The first installment of real estate taxes, all personal property taxes, and yearly installments of special taxes shall become delinquent ~~on~~ after the first day of March following and, if not paid on or before said date, shall be subject to a penalty of three percent, and on May first following an additional penalty of three percent, and on July first following an additional three percent, and an additional penalty of three percent on October fifteenth following. From and after January first of the year following the year in which the taxes become due and payable, simple interest at the rate of twelve percent per annum upon the principal of the unpaid taxes on personal property shall be charged until the taxes and penalties are paid, with the interest charges to be prorated to the nearest full month for a fractional year of delinquency. The second installment of real estate taxes shall become delinquent ~~on~~ after October fifteenth, and, if not paid on or before that date shall become subject to a penalty of six percent.

SECTION 9. AMENDMENT. Section 57-20-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-20. Payment of tax under protest. Any person against whom any tax is levied, or who may be required to pay the same, may pay such tax under protest to the county treasurer, by giving notice in writing to such treasurer at the time of payment, specifying the reasons for such protest, and thereafter, within sixty days, he may apply in writing to the board of county commissioners for an abatement, adjustment, or refund of taxes thus paid, or any portion thereof, and if such application is rejected, in whole or in part, or if the board fails to act upon his application within sixty days, it shall notify the applicant of the disposition of his application and of his right to appeal ~~to the tax appeals board~~ as provided by law. The application to the board of county commissioners shall show the post-office address of the taxpayer and notice to such address by registered or certified mail shall be sufficient service of the notice of rejection or approval of the taxpayer's application.

SECTION 10. AMENDMENT. Section 57-23-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-04. County commissioners may abate or refund taxes.

1. Upon application filed in the office of the county auditor on or before November first of the year following the year in which the tax becomes delinquent, as in this chapter provided, the board of county commissioners may abate or

refund, in whole or in part, any assessment or tax upon real property, in the following cases:

- 1- a. When an error has been made in any identifying entry or description of the property, in entering the valuation thereof, or in the extension of the tax, to the injury of the complainant.
 - 2- b. When improvements on any real property were considered or included in the valuation thereof which did not exist thereon at the time fixed by law for making the assessment.
 - 3- c. When the complainant, or the property, is exempt from the tax.
 - 4- d. When the complainant had no taxable interest in the property assessed against him at the time fixed by law for making the assessment.
 - 5- e. When taxes have been erroneously paid, or errors made in noting payment, or in issuing receipts therefor.
 - 6- f. When the same property has been assessed against the complainant more than once in the same year, and the complainant produces satisfactory evidence that the tax thereon for such year has been paid.
 - 7- g. When any building, mobile home, structure, or other improvement has been destroyed or injured by fire, flood, or tornado the abatement or refund shall be granted only for that part of the year remaining after the property was damaged or destroyed.
 - 8- h. When the assessment on the complainant's property is invalid, inequitable, or unjust.
2. An application for refund of taxes paid with respect to any part of an assessment abated under this section shall be granted, regardless of whether or not such taxes were paid under protest, oral or written.
3. Any person aggrieved by any decision of the board of county commissioners may appeal in the manner provided by law.

SECTION 11. AMENDMENT. Section 57-23-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-08. Duties of county auditor and county commissioners after abatement action. After the granting of any application for abatement or refund or compromise of any tax, the county auditor shall correct all tax lists in accordance with the order of abatement or compromise, and the applicant shall be relieved of further liability

for the tax abated or compromised. If the board of county commissioners disapproves any application for abatement or refund or compromise, in whole or in part, the reasons for disapproval shall be stated thereon and the applicant may appeal the rejection of the application for abatement or refund or compromise ~~to the tax appeals board within thirty days from the date of the mailing of the notice of rejection as provided by law.~~ The county auditor, at the close of each calendar year, shall certify to the director of the state office of management and budget the amount of state taxes canceled by action of the board of county commissioners or the tax appeals board and the same shall be credited to the county.

SECTION 12. AMENDMENT. Subsection 3 of section 57-26-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. If the certificate is a subsequent tax sale certificate, by paying the amount which the person named therein paid for the same plus interest on such amount at the rate of ~~six~~ nine percent per annum. Subsequent tax sale certificates must be redeemed in the order in which they were issued.

SECTION 13. AMENDMENT. Section 57-28-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-28-18. Terms of private sale and redemption and distribution of proceeds. Any private sale of real property made between the annual November sales shall be made upon the same terms and conditions as a sale is authorized to be made at the November sale, except that when farmland is sold after the first of January such sale will be made subject to any existing farm lease of said land for the year in which such sale is made, and if such property is sold at private sale to any person other than the former owner, his executor or administrator, or any member of his immediate family, such sale shall be held in abeyance for a period of thirty days from the date of notice to the former owner, his executor or administrator, or any member of his immediate family, given by registered or certified mail by the county auditor, to his last known post-office address, or, if the post-office address is not known, then to the post office nearest the land, during which time the former owner, his executor or administrator, or any member of his immediate family, may make redemption by payment in full of the delinquent taxes, penalty, and interest charged against such real estate or the proposed sale price, whichever may be the lesser. If no redemption is made by the former owner, his executor or administrator, or any member of his immediate family, during said period of thirty days, then the sale shall be final and the purchaser shall be entitled to a deed as provided in this chapter. When farmlands are so redeemed after the first of January, such redemption will be made subject to any existing farm lease of said lands for the year in which such redemption is made. In case of the sale or contract for sale or redemption of tax deed land before the first of ~~April~~ February, such land shall be assessed and taxed for the current year, and the

purchaser or vendee or redemptioner shall be entitled to the rental and landlord's share of crops on such land for such year. In case of the sale or contract for purchase or redemption of tax deed land after March thirty-first, the land shall not be assessed and taxed for the current year, and the county shall retain the rental and landlord's share of the crops thereon for that year. The proceeds realized from such sale shall be apportioned in the manner in which the proceeds of the annual November sale are distributed. The proceeds realized from any rental and landlord's share of the crops shall be apportioned in the manner in which other rental proceeds are distributed under the present law.

SECTION 14. AMENDMENT. Section 57-32-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-32-01. Applicability of public utility laws. All of the provisions of chapter 57-06 are made applicable, insofar as the same may be consistent with the provisions of this chapter, to the assessment of ~~earline companies~~, express companies, and air transportation companies.

SECTION 15. AMENDMENT. Section 57-32-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-32-04. Allocation of tax. The taxes imposed by this chapter upon ~~earline companies~~ and express companies shall be collected by the state treasurer and deposited in the state general fund.

The taxes imposed by this chapter upon air transportation companies shall be deposited with the state treasurer, who shall credit the same to the air transportation fund, but within ninety days after receipt thereof, these funds shall be allocated and remitted as herein provided by the state treasurer to the cities or municipal airport authorities where such transportation companies make regularly scheduled landings. The taxes collected from each such company shall be allocated to each city or municipal airport authority where such company makes regularly scheduled landings according to the ratio that the annual gross landing weight of the company for such city or municipal airport authority bears to the total annual gross landing weight of the company for all cities or municipal airport authorities where it makes regularly scheduled landings. The annual gross landing weight of a company for a city or municipal airport authority shall be computed by (1) multiplying the certified landing weight for each plane of the company by the number of landings made by it during the preceding calendar year at the city or municipal airport authority, and (2) adding together the amount so computed for each such plane. The annual gross landing weight of a company for all cities and municipal airport authorities shall be the total of the annual gross landing weight of the company for each city or municipal airport authority in which it made regularly scheduled landings. The certified landing weight of a plane shall be the landing weight as certified by the federal aviation agency. It shall be the duty of the tax commissioner to certify to the state treasurer the names of such air transportation

companies and the amount of tax of each company that shall be allocated by the state treasurer to each city or municipal airport authority.

SECTION 16. AMENDMENT. Section 57-32-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-32-05. Collection of tax. If any tax required to be paid by any company under the provisions of this chapter shall not be paid on or before October first of the year following the year of delinquency, the state treasurer shall seize personal property belonging to such company found within this state, sufficient to pay the amount of such tax with penalty and interest. The state treasurer, immediately after seizing said property, shall proceed to advertise the same for sale by publishing a notice at least two times in a newspaper published in Burleigh County. Such notice shall describe the property seized, the amount of the tax and penalty for which the property has been seized, and the day and hour when and the place where said property will be sold. If the tax and penalty, with interest due thereon, shall not be paid before the time appointed for sale, which shall not be less than ten days after the first publication of such notice, the state treasurer shall proceed to sell such property, or so much thereof as may be necessary, to pay such tax, penalty, interest, and the costs of such seizure and sale, at public auction to the highest bidder.

~~If any tax required to be paid by any earline company under the provisions of this chapter shall not be paid on or before October first following delinquency, the state treasurer may collect the tax due by using the following alternative procedure-~~

~~The state treasurer shall give notice of the amount of the delinquent tax by registered mail to the chief accounting officer of any railroad company over whose line or lines in this state the cars of said delinquent have been transported, or are being transported, and which said railroad company has in its possession or under its control any credits belonging to the delinquent or owes any debts to the delinquent-~~

~~After receiving the notice the railroad company so notified shall neither transfer nor make other disposition of the credits, or debts until the state treasurer consents to a transfer or disposition or until sixty days elapse after receipt of the notice- All railroad companies so notified shall advise the state treasurer within ten days after receipt of the notice of all such credits or debts in their possession, under their control, or owing by them-~~

~~Whenever any railroad company advises the state treasurer that it has within its possession or under its control any credits belonging to the delinquent, or owes any debt to the delinquent, and the amount thereof, the state treasurer may thereupon issue a notice of distraint and have the same served upon any such railroad company- Service of said notice upon the registered agent of such railroad company within this state shall constitute valid service-~~

Any railroad company so served shall pay over to the state treasurer the sum of any credits belonging to the delinquent, or any debts owing to the delinquent, whenever such credits, or debts are less than the delinquent tax and penalty, or shall pay over to the state treasurer the amount of the delinquent tax and penalty, whenever such credits or debts are greater, and shall deduct the sum so paid over from the credits or debts due the delinquent.

SECTION 17. AMENDMENT. Section 57-33-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-33-03. Report of gross receipts. Each cooperative annually on or before May first in each year shall file a report with the tax commissioner in such form and containing such information as the tax commissioner may prescribe and demand. Such report shall state the amount of gross receipts derived from the furnishing of electric energy during the preceding calendar year. Gross receipts derived from the sale of a capital asset do not have to be reported. Each such cooperative at the same time shall file with the county auditor of each county within which any of its lines are located a report giving the length of the line or lines within each taxing district in said county and the total length of its lines within the county as of January first of that year. The county auditor may require a map to be filed, showing the length of the lines within each taxing district of said county. To facilitate the making of such maps, the county auditor shall furnish each cooperative an accurate map of the county showing the boundaries of each taxing district.

SECTION 18. AMENDMENT. Subsection 1 of section 57-33-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The tax commissioner shall levy on each cooperative a tax upon its gross receipts for the preceding calendar year. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this section. Each year for the first five years during which such cooperative is engaged in business the tax shall be one percent and thereafter the tax shall be two percent of its gross receipts. For the purpose of determining when the two percent rate shall be applied, the first year the cooperative is engaged in business shall be the first year in which the cooperative was engaged in business prior to April first of that year. The tax hereby imposed shall be in lieu of any other taxes levied on the personal property of such cooperatives.

SECTION 19. AMENDMENT. Section 57-55-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-04.1. Procedure for abatement, refund, or compromise of tax. Any person having any estate, right, title, or interest in or lien upon any mobile home which has been assessed for taxation purposes

pursuant to this chapter may apply for abatement, refund, or compromise, as the case may be, pursuant to chapter 57-23. The application shall be made in writing on the form prescribed by the tax commissioner and shall be filed in triplicate with the county auditor of the county where the mobile home was assessed within six months after the tax imposed by this chapter becomes due, or at any time during the taxable year that a mobile home qualifies under the provisions of section 57-55-10. The county auditor shall promptly serve the county director of tax equalization with one copy of the application. The abatement or compromise shall be granted by the county commissioners if the facts upon which the application is based establish that the assessment contains error, or that the value placed upon the mobile home by the county director of tax equalization was excessive, or that the mobile home is exempt from taxation pursuant to section 57-55-10. The decision of the county commissioners may be reviewed and considered by the tax appeals board pursuant to chapter 57-23-1 appealed in the manner provided by law.

* SECTION 20. AMENDMENT. Section 57-60-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-02. Imposition of taxes. There is hereby imposed upon the operator of each coal conversion facility ~~an annual~~ a tax paid monthly 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, 3, and 4, the tax shall be measured by the gross receipts derived from such facility for the preceding month and shall be in the amount of two and one-half percent of such gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
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.
3. For electrical generating plants, in addition to the tax imposed by subsection 2, there shall be a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale.
4. For coal gasification plants, the tax shall be either the amount provided in subsection 1 or ten cents on each one thousand cubic feet [28,316.85 liters] of synthetic natural gas produced for the purpose of sale, whichever is greater.

* NOTE: Section 57-60-02 was also amended by section 2 of Senate Bill No. 2257, chapter 654.

SECTION 21. AMENDMENT. Subsection 3 of section 57-62-02 of the North Dakota Century Code 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 [metric tons] of coal severed at each mining operation bears to the total number of tons [metric tons] of coal severed in the state during such quarterly period. Allocations under subdivision a shall be apportioned by the county treasurer within fifteen days from the date the moneys are received from the state treasurer and allocations under subdivision b shall be apportioned by the state treasurer as follows:
 - a. If the tittle of the currently active coal mining operation in a county is not within fifteen miles [24.14 kilometers] of another county in which no coal is mined, the revenue apportioned according to this subdivision 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.
 - (2) Forty percent shall be deposited by the county treasurer in the county general fund to be used for general governmental purposes.
 - (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 tittle of a currently active coal mining operation in a county is within fifteen miles [24.14 kilometers] of another county in which no coal is mined, the revenue apportioned from that coal mining operation according to this subsection shall be allocated, subject to the definitions of terms and the requirements in paragraph 4, as follows:
 - (1) Thirty percent shall be paid by the state treasurer to the incorporated cities of the coal-producing county and to any city of a non-coal-producing county when any portion of the city lies within fifteen miles [24.14 kilometers]

of the tippel of the 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 40-02 in case of a city incorporated subsequent to such census.

- (2) Forty percent shall be divided by the state treasurer 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 [24.14 kilometers] of the tippel of the 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 [24.14 kilometers] of the tippel of the 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 [24.14 kilometers] of the tippel 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 state treasurer the number of quarter sections of land in the non-coal-producing counties which lie at least in part within fifteen miles [24.14 kilometers] of the tippel of the currently active coal mining operation and their assessed valuations.
- (3) Thirty percent shall be apportioned by the state treasurer to school districts within the coal-producing 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 state treasurer to be eligible to share county funds as provided for in paragraph 2. The county superintendent of the non-coal-producing counties shall certify to the state treasurer 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

[24.14 kilometer] radius of the tippie of a currently active coal mining operation to the total number of schoolchildren from the coal-producing county combined with all the schoolchildren certified to be living on quarter sections within fifteen miles [24.14 kilometers] of the tippie of the currently active coal mining operation in the coal-producing county.

(4) For the purposes of this subdivision:

- (a) The terms "currently active coal mining operation in a county", "currently active coal mining operation in the coal-producing county", and "currently active coal mining operation" mean a coal mining operation that produces more than one hundred fifty thousand tons [136,077.71 metric tons] of coal in a coal-producing county during the quarterly period.
- (b) The term "coal-producing county" means a county in which more than one hundred fifty thousand tons [136,077.71 metric tons] of coal are mined in the quarterly period.
- (c) The term "another county in which no coal is mined" means a county in which not more than seventy-five thousand tons [68,038.86 metric tons] of coal are mined in the quarterly period.
- (d) The terms "non-coal-producing county" and "non-coal-producing counties" mean any county in which not more than seventy-five thousand tons [68,038.86 metric tons] of coal are mined in the quarterly period.
- (e) In computing each amount to be paid as provided in paragraph 1, 2, or 3 for coal severance tax revenue from coal mined during a quarterly period, the state treasurer of the coal-producing county shall deduct from the allocation the amount of coal severance tax revenue, if any, that the governmental body in the non-coal-producing county received from the coal mined in the non-coal-producing county during the same quarterly period.

SECTION 22. REPEAL. Section 57-02-23, subsection 5 of section 57-06-02, subsection 4 of section 57-06-14, subsection 13 of section 57-15-10, sections 57-23-03, 57-23.1-01, 57-23.1-02, 57-31-01, 57-31-02, and 57-31-03 of the North Dakota Century Code are hereby repealed.

Approved March 31, 1985

CHAPTER 605

SENATE BILL NO. 2289
(Senators Holmberg, Ingstad, Kilander)
(Representatives Cleveland, Moore, Schneider)

SENIOR CITIZEN PROPERTY TAX CREDIT

AN ACT 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; and to provide an effective date.

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

* SECTION 1. AMENDMENT. Section 57-02-08.1 of the 1983 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 ~~ten~~ twelve 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 taxable 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 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 ~~five six~~ five hundred thousand dollars, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of two thousand dollars of taxable valuation.

* NOTE: Section 57-02-08.1 was also amended by section 2 of Senate Bill No. 2250, chapter 604, and amended by section 1 of Senate Bill No. 2347, chapter 607, and amended by section 1 of Senate Bill No. 2466, chapter 606.

- b. 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 eighty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand six hundred dollars of taxable valuation.
- c. If the person's income is in excess of ~~six seven~~ thousand five hundred dollars and not in excess of seven nine thousand ~~five hundred~~ dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand two hundred dollars of taxable valuation.
- d. If the person's income is in excess of seven nine thousand ~~five hundred~~ dollars and not in excess of ~~eight ten~~ thousand five hundred dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of eight hundred dollars of taxable valuation.
- e. If the person's income is in excess of ~~eight ten~~ thousand five hundred dollars and not in excess of ten twelve thousand dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of four hundred dollars of taxable 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 the person is sixty-five years of age or older or is permanently and totally disabled, that such income, including that of any dependent, as determined in this chapter does not exceed ~~ten twelve~~ thousand dollars per annum and that the value of the person's assets, excluding the value of the person's "homestead" as defined in section 47-18-01, does not exceed fifty thousand dollars. 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 ~~ten twelve~~ 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~~ two hundred ~~ninety~~ ten 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.

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 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1985.

Approved March 30, 1985

CHAPTER 606

SENATE BILL NO. 2466
(Mutch)NO HOMESTEAD CREDIT FOR SUBSIDIZED
HOUSING

AN ACT to amend and reenact subsection 2 of section 57-02-08.1 of the North Dakota Century Code, relating to the homestead credit for rent paid by persons living in government subsidized low or middle income housing; and to provide an effective date.

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

* SECTION 1. AMENDMENT. Subsection 2 of section 57-02-08.1 of 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 ten 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, but excluding any federal rent subsidy, 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 any federal rent subsidy and 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 ninety dollars. If the

* NOTE: Section 57-02-08.1 was also amended by section 1 of Senate Bill No. 2289, chapter 605, and amended by section 2 of Senate Bill No. 2250, chapter 604, and amended by section 1 of Senate Bill No. 2347, chapter 607.

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 2. EFFECTIVE DATE. The provisions of this Act are effective for taxable years beginning after December 31, 1984.

Approved March 29, 1985

CHAPTER 607

SENATE BILL NO. 2347
(Wright)AGED OR DISABLED RENT CREDIT DISALLOWED
IN EXEMPT PROPERTY

AN ACT to amend and reenact subsection 2 of section 57-02-08.1 of the North Dakota Century Code, relating to property tax credits for a person sixty-five years of age or older, or for any person who is permanently and totally disabled, if that person rents living quarters and has an income of ten thousand dollars or less per annum.

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

* SECTION 1. AMENDMENT. Subsection 2 of section 57-02-08.1 of 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 ten 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 ninety dollars. If the calculation for

* NOTE: Section 57-02-08.1 was also amended by section 1 of Senate Bill No. 2289, chapter 605, and amended by section 2 of Senate Bill No. 2250, chapter 604, and amended by section 1 of Senate Bill No. 2466, chapter 606.

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~~ for any living quarters, including a nursing home licensed pursuant to section 23-16-01, if that nursing home living quarter has been declared exempt from property taxation.

Approved March 22, 1985

CHAPTER 608

SENATE BILL NO. 2384
(Moore)

FARM STRUCTURE EXEMPTION — HOMESTEAD CREDIT RELATION

AN ACT to create and enact a new subsection to section 57-02-08.1 of the North Dakota Century Code, relating to the homestead credit and farm structures exempt from taxation; and to provide an effective date.

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

SECTION 1. AMENDMENT. A new subsection to section 57-02-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

No person whose homestead as defined in section 47-18-01 is a farm structure exempt from taxation under subsection 15 of section 57-02-08 shall receive any property tax credit under this section.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1984.

Approved March 22, 1985

CHAPTER 609

HOUSE BILL NO. 1204
(Dotzenrod)

HOMESTEAD CREDIT PAYMENT

AN ACT to amend and reenact section 57-02-08.3 of the North Dakota Century Code, relating to state payment for the homestead credit for special assessments and the lien for payment of the homestead credit for special assessments.

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

SECTION 1. AMENDMENT. Section 57-02-08.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-08.3. Homestead credit for special assessments - Certification - Lien.

1. Any person who has qualified for the property tax credit provided for in section 57-02-08.1 may elect to also qualify for an additional homestead credit against that person's homestead for the portion of any special assessment levied by a city under title 40 that becomes due for the same year. The total amount of credits allowed for any one property must not exceed six thousand dollars excluding any interest charged by the body levying the special assessment. This credit shall be granted only at the election of the qualifying person. The person making the election shall do so by filing with the county auditor a claim for the special assessment credit on a form prescribed by the tax commissioner. The claim shall be filed with the county auditor on or before February first of the year in which the special assessment or installment thereof becomes payable.
2. a. By March first of each year, the county auditor of each county shall certify to the state tax commissioner, on forms prescribed by the tax commissioner, the following information:

- (1) The name and address of each person for whom the special assessment credit provided for in subsection 1 was allowed for the preceding year.
 - (2) The amount of credit allowed for the special assessment ~~or~~ installment thereof due for the preceding year.
 - (3) The total amount of the special assessment credits due in each special assessment district.
 - (4) Other information that the tax commissioner requires.
- b. The tax commissioner shall audit the certifications, make such corrections as may be required, and certify to the state treasurer for payment to each county by June first of each year the sum of the amounts computed by adding the credits allowed for portions of special assessment credits allowed assessments which were due for each homestead in the county for the preceding year. No more than the portion of special assessments due for the preceding year shall be allowed as a credit for any homestead in any year.
- c. The county treasurer upon receipt of the payment from the state treasurer shall forthwith apportion and distribute the payment to each special assessment district in the county according to the total credits allowed for each respective special assessment district.
- d. Supplemental certifications by the county auditor and by the state tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed herein to make such corrections as may be necessary because of errors therein.
3. a. Any credit allowed under subsection 1, plus interest in the amount of nine percent per year from the time the credit is taken, shall create a lien in favor of the state against the property upon which the special assessment credit is allowed and shall remain a lien upon the property from the time the credit is allowed until the lien is fully satisfied by depositing the amount of the lien in the state general fund. If the amount of the lien exceeds the market value of the property, the state may accept the amount of the market value of the property as payment in full on the lien.
- b. (1) Except as otherwise provided in this subdivision, no transfer of title to the homestead because of sale, death, or otherwise shall be made without

the lien being satisfied. When a credit under subsection 1 is allowed, the county auditor shall cause a notice of lien of record to be filed against subject property with the register of deeds.

- (2) When a transfer occurs between spouses because of the death of one of them, the lien allowed by this section need not be satisfied until the property is again transferred.
- c. This lien shall have precedence over all other liens except general tax liens and prior special assessment liens and shall not be divested at any judicial sale. No mistake in the description of the property covered by this lien or in the name of the owner of such property shall defeat the lien if the property can be identified by the description in the special assessment list.

Approved April 15, 1985

CHAPTER 610

HOUSE BILL NO. 1094
(Murphy, R. Anderson)

TAXATION OF REAL PROPERTY IN OIL AND GAS PRODUCTION

AN ACT to amend and reenact sections 57-02-26 and 57-24-31 of the North Dakota Century Code, relating to taxable property used for oil and gas discovery, exploration, processing, or transportation being taxable to the owner of that property; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 57-02-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-26. Certain property taxable to lessee or equitable owner.

1. Property held under a lease for a term of years, or under a contract for the purchase thereof, belonging to the United States or to the state or a political subdivision thereof, except such lands as have been leased for pasture or grazing purposes, or to any religious, scientific, or benevolent society or institution, whether incorporated or unincorporated, or to any railroad corporation whose property is not taxed in the same manner as other property, shall be considered, for all purposes of taxation, as the property of the person so holding the same.
2. Property held under an easement or a lease for a term of years and any improvements upon that property which are used for any purpose relating to discovery, exploration, processing, or transportation of oil or gas shall be considered the property of the lease or easement holder. For the purposes of this subsection, "improvements" does not include pipelines or property subject to the provisions of chapter 57-06 or property subject to the in lieu of ad valorem tax provisions of chapter 57-51.

SECTION 2. AMENDMENT. Section 57-24-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-24-31. Collection of real estate taxes on leasehold or other possessory interests.

1. If any holder of a leasehold or other possessory interest in exempt real property neglects or refuses to pay any real estate taxes legally assessed and levied thereon at such time as now is or may hereafter be required by law for the payment of real property taxes, such leasehold or other possessory interest shall be sold in the manner provided by law for the sale of real property for delinquent taxes. Such taxes shall also constitute a personal charge against the holder of the lease or other possessory interest from and after the day they become due, and all of the provisions of law with respect to the enforcement of collection of personal property taxes shall be applicable.
2. For property subject to assessment under the provisions of subsection 2 of section 57-02-26, taxes upon the property constitute a personal charge against the lease or easement holder from and after the day they become due, and all of the provisions of law with respect to the enforcement of collection of personal property taxes shall be applicable.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1984.

Approved March 27, 1985

CHAPTER 611

SENATE BILL NO. 2443
(Senators Moore, Dotzenrod)
(Representatives A. Olson, Riehl)

AGRICULTURAL LAND CAPITALIZATION RATE

AN ACT to amend and reenact section 57-02-27.2 of the North Dakota Century Code, relating to the capitalization rate used in the valuation and assessment of agricultural lands; and to provide an effective date.

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

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

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

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

To find the "capitalized average annual gross return" for years after 1983, the average annual gross return shall be capitalized by a rate which is ~~one-half of one percentage point below~~ a ten-year average of the gross federal land bank mortgage rate of interest for North Dakota. The ten-year average shall be computed from the twelve years ending with the most recent year used in subsection 1, discarding the highest and lowest years, and the gross federal land bank mortgage rate of interest for each year shall be determined in the manner provided in section 20.2032A-4(e)(1) of the United States treasury department regulations for valuing farm real property for federal estate tax purposes, except that the interest rate shall not be adjusted as provided in paragraph (e)(2) of section 20.2032A-4. ~~To find the "capitalized average annual gross return" for 1983, the average annual gross return shall be capitalized at seven and one-half percent. Notwithstanding the other provisions of this section, the maximum increase or decrease in the capitalization rate in any two-year period is three-tenths of one percentage point above or below the capitalization rate for the year preceding the two-year period.~~

It shall be the duty of the agricultural economics department of North Dakota state university to compute annually an estimate of the average agricultural value per acre [.40 hectare] of agricultural lands on a statewide and on a countywide basis, to compute the average agricultural value per acre [.40 hectare] for cropland and noncropland, which is agricultural land, for each county, and to provide the tax commissioner with this information by December first of each year. Prior to January first of each year the tax commissioner shall provide to each county director of tax equalization these estimates of agricultural value for each county.

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

It shall be the duty of each local assessor to determine the relative value of each assessment parcel within his jurisdiction and to determine the agricultural value of each assessment parcel by adjusting the agricultural value estimate for the assessment district by the relative value of the parcel. Each parcel shall then be assessed according to the provisions in section 57-02-27. If either a local assessor or a township board of equalization develops an agricultural value for the lands in its assessment

district differing substantially from the estimate provided by the county director of tax equalization, written evidence to support the change shall be provided to the county director of tax equalization.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1984.

Approved March 28, 1985

CHAPTER 612

SENATE BILL NO. 2345
(Dotzenrod, Moore)

POLITICAL SUBDIVISIONS LEVY LIMITATIONS

AN ACT to create and enact a new subsection to section 57-02-08 and two new sections to chapter 57-15 of the North Dakota Century Code, relating to an exemption from ad valorem taxes for certain athletic and recreational facilities and protection of property taxpayers and taxing districts and school district levy limits; and to provide an effective date.

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 North Dakota Century Code is hereby created and enacted to read as follows:

Property used for athletic or recreational activities when owned by a political subdivision and leased to a nonprofit corporation organized for the purpose of promoting public athletic or recreational activities.

SECTION 2. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Protection of taxpayers and taxing districts. Each taxing district, with the exception of school districts, may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed under subsection 2 or 3, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts provided in this section.
2. A taxing district may elect to levy at most three percent more in 1985 than the amount levied in dollars in 1984 and may elect to levy at most three percent more in 1986 than the amount levied in dollars in 1985. The governing body of the taxing district must specifically approve by resolution the levy of the additional percentage. Before

adding the increase, the dollar amount levied in the prior year which is used as a base amount shall be:

- a. Reduced by an amount equal to the sum determined by the application of the mill levies for that taxing district to the final taxable valuation of any property which is removed from the assessment rolls of that taxing district after the prior year but was included in the assessment for the prior year.
 - b. Increased by an amount equal to the sum determined by the application of the mill levies for that taxing district to the taxable valuation of any taxable property which was not taxable in the prior year or was omitted from the assessment rolls for the prior year but which is included in the assessment for the current year.
 - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district.
3. A taxing district may levy an amount in dollars equal to the amount levied in the prior year reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district plus an amount equal to the sum determined by the application of any mill levies authorized by law but not levied by the governing body of the taxing district for the prior year and any mill levies specifically authorized by the electors of that taxing district but not levied for the prior year to the taxable valuation of the taxable property in that taxing district. A taxing district electing to increase its levy under this subsection may not add the percentage increase permitted by this section to the amount levied pursuant to this subsection.
 4. A taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
 5. Under the provisions of this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
 - a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.

- b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
6. The limitation on the amount which may be levied by a taxing district pursuant to this section shall not apply to school districts.
7. The provisions of this section shall not apply to any city or county which has adopted a home rule charter unless the provisions of the charter specifically provide that state laws related to property tax levy limitations shall apply.

SECTION 3. A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

School district levy limits. Any school district may increase its levy for the purposes listed in section 57-15-14.3 by at most three percent in 1985 from the amount levied in dollars in 1984 and three percent more in 1986 from the amount levied in dollars in 1985. In the alternative, but not in addition, any school district whose electorate has approved a specified levy for prior years and which district did not levy up to the authorized level of that specified levy, may levy the difference between the levy authorized and the amount levied the preceding year for that purpose in addition to the maximum levy allowable under section 57-15-14.

SECTION 4. **EFFECTIVE DATE.** Section 1 of this Act is effective for taxable years beginning after December 31, 1984, and sections 2 and 3 of this Act are effective for the taxable years beginning January 1, 1985, and January 1, 1986.

Approved April 15, 1985

CHAPTER 613

HOUSE BILL NO. 1190
(Committee on Finance and Taxation)
(At the request of the State Auditor)

MILL LEVY DATES

AN ACT to amend sections 57-15-05, 57-15-07, and 57-15-11 of the North Dakota Century Code, relating to dates for levying taxes for county, city, and park district levy requests.

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

SECTION 1. AMENDMENT. Section 57-15-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-05. County tax levy. ~~On the fourth Tuesday in July of each year, or within ten days thereafter, the board of county commissioners of each county shall levy the necessary taxes for the current year on all taxable property in the county. In levying such county taxes, the~~ The board of county commissioners, in levying county taxes, shall be limited to the amount necessary to be ~~raised for the purpose of meeting meet~~ the appropriations included in the county budget ~~of for the current ensuing~~ fiscal year, and ~~the sum necessary to provide a reserve fund as limited in this chapter provided,~~ together with a tax sufficient in amount to pay the interest on the bonded debt of the county and to provide a sinking fund to pay the principal ~~thereof~~ at maturity. The county budget shall show the complete expenditure program of the county for the ~~current ensuing~~ fiscal year, and the sources of revenue from which it is to be financed.

SECTION 2. AMENDMENT. Section 57-15-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-07. City tax levies. ~~City taxes shall be levied by the governing body of the municipality at an annual meeting on the fourth Wednesday of July of each year, or within ten days thereafter, and in any such levy the~~ The governing body, in levying city taxes, shall be limited by the amount necessary to be ~~raised to meet the~~ appropriations included in the ~~annual city budget of for the current ensuing~~ fiscal year and to provide a reserve fund as limited in this chapter, together with a tax sufficient in amount to pay the interest on the bonded debt of the municipality, and to

provide a sinking fund to pay and discharge the principal thereof at maturity.

SECTION 3. AMENDMENT. Section 57-15-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-11. Park district tax levies. Park district taxes shall be levied by the board of park commissioners at the annual budget meeting of the board on the fourth Wednesday of July of each year, or within ten days thereafter, in levying park district taxes the The board of park commissioners, in levying park district taxes, shall be limited by the amount necessary to meet the appropriations included in its annual the park district budget of for the current ensuing fiscal year, and the sum necessary to be provided as provide a reserve fund as limited in section 57-15-27 this chapter, together with a tax sufficient in amount to pay the interest on the bonded debt of the municipality and to provide a sinking fund to pay and discharge the principal thereof at maturity.

Approved February 4, 1985

CHAPTER 614

SENATE BILL NO. 2237
(Committee on Finance and Taxation)
(At the request of the State Auditor)

COUNTY CORRECTION CENTERS TAX LEVY

AN ACT to create and enact a new subsection to section 57-15-06.7 of the North Dakota Century Code, relating to a property tax levy in addition to the general fund levy for county correction centers; to amend and reenact sections 57-15-06.6 and 57-15-06.8 of the North Dakota Century Code, relating to the county correction centers levy.

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

* SECTION 1. AMENDMENT. Section 57-15-06.6 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.6. Levy authorized for regional or county ~~corrections~~ correction centers. The board of county commissioners of each county may levy an annual tax not exceeding the limitation in ~~subsection 7 of section 57-15-06-8 2 of this Act~~ for the purpose of constructing, equipping, operating, and maintaining regional or county ~~corrections~~ correction centers.

SECTION 2. A new subsection to section 57-15-06.7 of the North Dakota Century Code is hereby created and enacted to read as follows:

Counties levying a tax for regional or county correction centers according to section 57-15-06.6 may levy a tax not exceeding five mills.

** SECTION 3. AMENDMENT. Section 57-15-06.8 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.8. County tax levies and limitations not in addition to the general fund levy. The following mill levies, expressed as mills on the dollar of taxable valuation of property within the county, may be levied by counties but are not excepted from the general mill levy limitations of section 57-15-06:

* NOTE: Section 57-15-06.6 was also amended by section 136 of Senate Bill No. 2086, chapter 82.

** NOTE: Section 57-15-06.8 was also amended by section 138 of Senate Bill No. 2086, chapter 82, and amended by section 3 of House Bill No. 1413, chapter 89, and amended by section 1 of Senate Bill No. 2315, chapter 615.

1. Counties levying a tax for county fairs according to section 4-02-26 may levy a tax not exceeding one-half of one mill.
2. Counties levying a tax according to section 4-02-27 for a county fair association may levy a tax not exceeding one-fourth of one mill.
3. Counties levying a tax in accordance with section 4-02-27.1 for a county fair association may levy a tax not exceeding one-half mill.
4. Counties levying a tax for multicounty fairs according to section 4-02-37 may levy a tax not exceeding one-half of one mill.
5. Counties levying a tax for extraordinary expenditures according to section 11-11-24 may levy a tax not exceeding three mills.
6. Counties levying a tax to establish firebreaks according to section 18-07-01 may levy a tax not exceeding five mills.
- 7- ~~Counties levying a tax for regional or county corrections centers according to section 57-15-06-6 may levy a tax not exceeding five mills-~~

Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

Approved March 22, 1985

CHAPTER 615

SENATE BILL NO. 2315
(Stenehjem, Holmberg)

EXTRAORDINARY EXPENDITURE LEVY LIMIT

AN ACT to amend and reenact subsection 5 of section 57-15-06.8 of the North Dakota Century Code, relating to county tax levy limitations for extraordinary expenditures.

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

* SECTION 1. AMENDMENT. Subsection 5 of section 57-15-06.8 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Counties levying a tax for extraordinary expenditures according to section 11-11-24 may levy a tax not exceeding ~~three~~ five mills.

Approved March 22, 1985

- * NOTE: Section 57-15-06.8 was also amended by section 138 of Senate Bill No. 2086, chapter 82, and amended by section 3 of Senate Bill No. 2237, chapter 614, and amended by section 3 of House Bill No. 1413, chapter 89.

CHAPTER 616

HOUSE BILL NO. 1277
(Representative Nalewaja)
(Senator Lashkowitz)

ANIMAL SHELTER TAX LEVY

AN ACT to authorize a city tax levy for the construction, operation, and maintenance of animal shelters and to provide for sterilization of animals released for adoption by animal shelters supported by the levy; and to create and enact a new subsection to section 57-15-10 of the North Dakota Century Code, relating to a city tax levy for animal shelters which is in addition to general tax levy limitations.

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

SECTION 1. A new subsection to section 57-15-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

Taxes levied for construction, operation, and maintenance of animal shelters in accordance with section 2 of this Act may be levied in an amount not exceeding one-half mill.

SECTION 2. City tax levy for animal shelters. The governing body of the city, when authorized by a vote of at least sixty percent of the electors voting on the question, may levy a tax not exceeding the limitation in section 1 of this Act for the construction, operation, or maintenance of animal shelters. The proceeds of the tax must be kept in a separate fund and used exclusively for the purposes provided in this section. The levy authorized by this section may be used to defray expenses of any organization or agency incorporated under the laws of this state as a nonprofit corporation that has contracted with the governing body of the city in regard to the manner in which the funds will be expended and the services will be provided.

SECTION 3. Sterilization. No unclaimed dog or cat may be released for adoption by an animal shelter that receives funds from the levy under section 2 of this Act without being first sterilized, or without a written agreement and deposit from the adopter guaranteeing that the animal will be sterilized.

Approved March 22, 1985

CHAPTER 617

HOUSE BILL NO. 1050
(Legislative Council)
(Interim Education "A" Committee)

SCHOOL DISTRICT LEVY LIMITATIONS

AN ACT to amend and reenact section 57-15-14 of the North Dakota Century Code, relating to tax levy limitations in school districts; and to provide an effective date.

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

* SECTION 1. AMENDMENT. Section 57-15-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-14. Tax levy limitations in school districts. The aggregate amount levied each year for the purposes listed in section 57-15-14.3 by any school district, except the Fargo school district, shall not exceed the amount in dollars which the school district levied for the prior school year plus eighteen percent up to a general fund levy of seventy mills on the dollar of the taxable valuation of the district, except that:

- 1. In any school district having a total population in excess of four thousand according to the last federal decennial census:
 - a. There may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the electors voting upon the question at any regular or special school district election.
 - b. There shall be no limitation upon the taxes which may be levied if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted to and approved by a majority of the electors voting at any regular or special election upon such question.
- 2. In any school district having a total population of less than four thousand ~~according to the last federal decennial census~~, there may be levied any specific number of mills

* NOTE: Section 57-15-14 was also amended by section 98 of House Bill No. 1059, chapter 235.

that upon resolution of the school board has been approved by fifty-five percent of the qualified electors voting upon the question at any regular or special school election.

3. In any school district in which the total assessed valuation of property has increased twenty percent or more over the prior year and in which as a result of that increase the school district is entitled to less in state foundation aid payments provided in sections 15-40.1-06 through 15-40.1-08 because of the deduction required in subsection 3 of section 15-40.1-06, there may be levied any specific number of mills more in dollars than was levied in the prior year up to a general fund levy of seventy mills on the dollar of the taxable valuation of the school district. The additional levy authorized by this subsection may be levied for not more than two years because of any twenty percent or greater annual increase in assessed valuation. The total amount of revenue generated in excess of the eighteen percent increase which is otherwise permitted by this section may not exceed the amount of state aid payments lost as a result of applying the deduction provided in subsection 3 of section 15-40.1-06 to the increased assessed valuation of the school district in a one-year period.

The question of authorizing or discontinuing such specific number of mills authority or unlimited taxing authority in any school district shall be submitted to the ~~electorate~~ qualified electors at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of qualified electors of the district equal in number to twenty percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, unless such census is greater than four thousand in which case only fifteen percent of the number of persons enumerated in the school census shall be required. However, not fewer than twenty-five signatures shall be required unless the district has fewer than twenty-five qualified electors, in which case the petition shall be signed by not less than twenty-five percent of the electors of the district. In those districts with fewer than twenty-five electors, the number of electors in the district shall be determined by the county superintendent for such county in which such school is located. However, the approval of discontinuing either such authority shall not affect the tax levy in the calendar year in which the election is held. The election shall be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1984. However, any school district which was entitled to less in state foundation aid payments for the 1984-85 school year as a result of an increase in total assessed valuation of property as provided in subsection 3 of section 57-15-14 may assess the additional levy authorized by that subsection.

Approved March 22, 1985

CHAPTER 618

HOUSE BILL NO. 1236
(Representatives Hoffner, O'Connell, Oban)
(Senators Kelsh, Lodoen, Olson)

SCHOOL ASBESTOS REMOVAL LEVIES

AN ACT to amend and reenact section 57-15-14.2 of the North Dakota Century Code, relating to special fund mill levies for the removal of asbestos from school buildings.

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

SECTION 1. AMENDMENT. Section 57-15-14.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-14.2. Mill levies requiring board action - Proceeds to special fund account.

1. A school board of any school district may levy an amount sufficient to cover the costs of the following:
 - a. Board and lodging for high school students as provided in section 15-34.2-06.
 - b. The teachers' retirement fund as provided in section 15-39.1-28.
 - c. Tuition for students in grades seven through twelve as provided in section 15-40.2-12.
 - d. Special education program as provided in section 15-59-08.
 - e. The establishment and maintenance of an insurance reserve fund for insurance purposes as provided in section 32-12.1-08.
 - f. A final judgment obtained against a school district.
 - g. The district's share of contribution to the old-age survivors' fund and matching contribution for the social security fund as provided by chapter 52-09 and

to provide the district's share of contribution to the old-age survivors' fund and matching contribution for the social security fund for contracted employees of a multidistrict special education board.

- h. The rental or leasing of buildings, property, or classroom space. Minimum state standards for health and safety applicable to school building construction shall apply to any rented or leased buildings, property, or classroom space.
 - i. Unemployment compensation benefits.
 - j. The removal of asbestos substances from school buildings and any repair, replacement, or remodeling that results from such removal.
2. A school board may levy no more than a total of ninety mills for the purposes listed in subsection 1 except that this limitation does not apply to mill levies pursuant to subdivisions a, c, and f, and j of subsection 1.
 3. All proceeds of any levy established pursuant to this section shall be placed in the school district's special fund account and may be expended to achieve the purposes for which the taxes authorized by this section are levied.

Approved March 1, 1985

CHAPTER 619

HOUSE BILL NO. 1160
(Opedahl, Laughlin)

TOWNSHIP SPECIAL ROAD FUND BALANCE

AN ACT to amend and reenact section 57-15-19.2 of the North Dakota Century Code, relating to special road funds in townships.

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

SECTION 1. AMENDMENT. Section 57-15-19.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-19.2. Township supervisors may authority to transfer funds into special road fund - Limitations - Use. The board of supervisors, at the time of the annual township meeting, upon resolution, may transfer or set aside a part or all of any funds into a special road fund, which fund shall be separate and distinct from all other funds. ~~Such~~ The special road fund shall not exceed the sum of ~~fifteen~~ thirty thousand dollars for any one congressional township. The special road fund may be expended, at the option of the board of supervisors, for the purpose of road construction, graveling, or surfacing.

Approved March 14, 1985

CHAPTER 620

SENATE BILL NO. 2264
(Senators Krauter, Wright)
(Representatives Martin, Riehl)

COUNTY EMERGENCY FUND LEVIES

AN ACT to amend and reenact section 57-15-28 of the North Dakota Century Code, relating to county emergency fund levies.

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

SECTION 1. AMENDMENT. Section 57-15-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-28. **Emergency fund - County.** The governing body of any county may levy a tax for emergency purposes not exceeding the limitation in subsection 22 of section 57-15-06.7. The emergency fund shall not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes, but shall be shown in the budget as an "emergency fund" and shall not be deducted from the budget as otherwise provided by law. Each county may create an emergency fund, and all taxes levied for emergency purposes by any county, when collected, shall be deposited in the emergency fund, and shall be used only for emergency purposes caused by the destruction or impairment of any county property necessary for the conduct of the affairs of the county, emergencies caused by nature or by the entry by a court of competent jurisdiction of a judgment for damages against the county. The emergency fund shall not be used for any road construction or maintenance, except for repair of roads damaged by nature within sixty days preceding such determination to expend emergency funds, or for the purchase of road equipment. Any unexpended balance, remaining in the emergency fund at the end of any fiscal year, shall be kept in such fund. When the amount of money in the emergency fund, plus the amount of money due the fund from outstanding taxes, ~~shall equal~~ equals the amount produced by a levy of five mills on the taxable valuation of property in a county with a population of thirty thousand or more, or ten mills on the taxable valuation of property in a county with a population of less than thirty thousand, the levy authorized by this section shall be discontinued, and no further levy shall be made until required to replenish the emergency fund.

Approved March 22, 1985

CHAPTER 621

HOUSE BILL NO. 1214
(Representative L. Hanson)
(Senator Wright)

VOTE REQUIRED FOR SENIOR CITIZENS
PROGRAMS TAX LEVY

AN ACT to amend and reenact subsection 3 of section 57-15-56 of the North Dakota Century Code, relating to the vote required to authorize a tax levy for programs and activities for senior citizens.

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

* SECTION 1. AMENDMENT. Subsection 3 of section 57-15-56 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The levy authorized by this section shall be imposed or removed only by a vote of at least sixty percent a majority of the electorate of the county or city directing the governing body to do so. The governing body shall put the issue before the people either on its own motion or when a petition in writing, signed by qualified electors of the county or city equal in number to at least ten percent of the total vote cast in the county or city for the office of governor of the state at the last general election is presented to said governing body.

Approved February 15, 1985

* NOTE: Section 57-15-56 was also amended by section 106 of House Bill No. 1059, chapter 235.

CHAPTER 622

SENATE BILL NO. 2270
(Senator Lodoen)
(Representative Stofferahn)

SCHOOL DISTRICT RESERVE FUND INCOME

AN ACT to amend and reenact section 57-19-02 of the North Dakota Century Code, relating to the disposition of investment income from school district special reserve funds.

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

SECTION 1. AMENDMENT. Section 57-19-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-19-02. Fund deposited with county treasurer. Such special reserve fund shall be deposited with the county treasurer of the county in which the school district, or the greater part of its territory, is situated, for the use and benefit of the school district, to be drawn upon as provided in this chapter, and kept by such county treasurer as a separate trust fund. Moneys in such fund may be deposited, held, or invested in the same manner as the sinking fund of the district or in the purchase of shares or securities of federal savings and loan associations or state chartered building and loan associations, within the limits of federal insurance. The county treasurer shall annually, upon a resolution of the school board, pay to the school district general fund any part or all of the investment income or interest earned by the principal amount of the school district's special reserve fund.

Approved March 22, 1985

CHAPTER 623

HOUSE BILL NO. 1315
(O. Hanson)RECOMMENDATIONS ON ABATEMENT
APPLICATIONS

AN ACT to amend and reenact section 57-23-06 of the North Dakota Century Code, relating to city and township recommendations on pending abatement applications.

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

SECTION 1. AMENDMENT. Section 57-23-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-06. Hearing on application.

1. Within ten days after receiving an application for abatement, the city auditor or the township clerk shall give the applicant a notice of a hearing to be held before the governing body of the city or township, or such other committee as it may designate, in which the assessed property is located. Said hearing shall be set for no more than sixty days after the date of the notice of hearing, and in any event, shall be held before the recommendations provided for in subsection 2 are made. The applicant may waive, in writing, the hearing before such governing body or designated committee at any time before the hearing. Any recommendations provided for in subsection 2 must be transmitted to the county auditor no more than thirty days after the date set for the hearing. The provisions of this subsection shall not apply to applications for abatement pursuant to section 57-02-08.2.
2. At the next regular meeting of the board of county commissioners following the filing of an application for abatement or, if forthcoming, at the next regular meeting of the board of county commissioners following transmittal of the recommendations of the governing body of the municipality, the applicant may appear, in person or by a representative or attorney, and may present such evidence as may bear on the application. The applicant shall furnish any additional information or evidence requested

by the board of county commissioners. The recommendations of the governing body of the municipality in which such assessed property is located shall be endorsed upon or attached to every application for an abatement or refund, and the board of county commissioners shall give consideration to such recommendations. The board of county commissioners, by a majority vote, either shall approve or reject the application, in whole or in part. If rejected, a statement of the reasons for such rejection, signed by the chairman of the board, shall be attached to the application, and a copy thereof shall be mailed by the county auditor to the applicant at the post-office address specified in the application.

Approved March 14, 1985

CHAPTER 624

SENATE BILL NO. 2286
(Olson)

TAX SALE NOTICE REQUIREMENTS

AN ACT to amend and reenact subsection 4 of section 57-27-02 of the North Dakota Century Code, relating to the county auditor giving notice of expiration of the period of redemption after a tax sale.

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

SECTION 1. AMENDMENT. Subsection 4 of section 57-27-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Duplicate copies of the notice of expiration of the period of redemption shall be prepared by the county auditor. If any mortgagee or assignee of a mortgage holding an unsatisfied mortgage on said land, as shown by the records in the office of the register of deeds, shall have requested in writing that the county auditor mail him one of said duplicate copies and shall have paid to the auditor the sum of one dollar and fifty cents as a fee for such purpose, the county auditor shall mail one of said copies of the notice to such mortgagee or assignee by registered or certified mail addressed to the mortgagee or assignee at least ninety days before the time for redemption expires. The county auditor shall serve the notice of the expiration of the period of redemption upon each mortgagee, lienholder, and other person interested therein as may appear from the records of the register of deeds and the clerk of the district court of the county. The notice must be served by registered mail and a registry and return receipt must be demanded and filed with proof of service. The expense of service by registered mail shall be added to the amount required to redeem and must be paid by the person making the redemption in addition to the amounts stated in the notice. The auditor shall make proof of service by affidavit showing the names and addresses of all parties upon whom the notice was served with the date of mailing in each case, and the auditor shall attach the registry,

certification, and return receipts and file the affidavit and receipts with the original notice of the expiration of the period of redemption. Within ten days after a request by the county auditor the register of deeds and the clerk of the district court shall furnish the county auditor with a certified list giving the names and addresses of all persons who appear to be interested as owners, mortgagees, lienholders, or otherwise in the real estate, upon whom the notice of the expiration of the period of redemption must be served.

Approved March 29, 1985

CHAPTER 625

HOUSE BILL NO. 1496
(Representatives DeMers, Nalewaja, Sauter)
(Senators Lodoen, Lashkowitz, Reiten)

MARKETABLE TITLE OF CITY LAND ACQUIRED AT TAX SALE

AN ACT to create and enact a new section to chapter 57-28 of the North Dakota Century Code, relating to marketable title of real estate acquired by a city.

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

SECTION 1. A new section to chapter 57-28 of the North Dakota Century Code is hereby created and enacted to read as follows:

Real estate sold to city to be marketable. Where any city has purchased real estate pursuant to section 57-28-17 or 57-28-19 the city shall be deemed to have marketable record title to such property if all of the following apply:

1. The county deed conveying the property has been recorded.
2. The city has entered into possession of the property.
3. No lis pendens giving notice of the pendency of an action challenging the validity of tax proceedings or of the deed has been recorded within three months of the date on which the city entered into possession of the property, or the effective date of this section, whichever is later.

A subsequent conveyance of the property by the city shall convey title free of any claims based on any defects in the process of tax title acquisition by the county through which the city obtained title to the property. A claimant who would be entitled to some claim on the property because of a defect in the process by which the city obtained title thereto shall, when the title of the city is deemed marketable under this section, have instead the right to recover from the city the net value of that claim, subject to the statutory restrictions on claims against a city. For the purpose of this section, the fact of possession by the city may be shown of record by one or more affidavits which contain the legal description of the real estate and show that the city entered into possession of the property and continued such possession for three months or

longer. The posting on the property of a sign or notice, legible from the street adjacent to the property, indicating the property is owned or for sale by the city shall be deemed an act of possession by the city, but shall not be required.

Approved March 27, 1985

CHAPTER 626

HOUSE BILL NO. 1619
(Shaw)

INTEREST ON LANDS PURCHASED AT TAX SALE

AN ACT to amend and reenact subsection 4 of section 57-28-15 of the North Dakota Century Code, relating to the rate of interest on land purchased at the annual county sale of land acquired by tax deed.

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

SECTION 1. AMENDMENT. Subsection 4 of section 57-28-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The original contract shall be filed with the county treasurer, who shall endorse thereon all payments made by the purchaser, and the unpaid balance shall draw interest at the rate of ~~four percent per annum~~ established by the board of county commissioners. The interest rate established by the board of county commissioners may not exceed twelve percent.

Approved March 22, 1985

CHAPTER 627

SENATE BILL NO. 2209
(Committee on Finance and Taxation)
(At the request of the Tax Commissioner)

TOBACCO PRODUCTS TAX LAW

AN ACT to amend and reenact subsection 1 of section 57-36-07 and sections 57-36-12 and 57-36-25 of the North Dakota Century Code, relating to packaging, discounts, and penalties for the tobacco products tax; and to provide a penalty.

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

SECTION 1. AMENDMENT. Subsection 1 of section 57-36-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. All cigarettes sold in this state shall be put up in packages containing five, ~~eight, ten, twelve, fifteen, sixteen, twenty, twenty-four, forty, fifty, eighty, or one hundred~~ or more cigarettes each.

SECTION 2. 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-seven~~ ninety-five percent of the face value thereof.

SECTION 3. AMENDMENT. Section 57-36-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-25. Cigars, snuff, and other tobacco products - Excise tax on wholesale purchase price - Penalty - Reports - Collection - Allocation of revenue.

1. There is hereby levied and assessed upon all cigars, snuff, and other tobacco products, sold in this state an excise tax at the rate of eleven percent of the wholesale purchase price at which such cigars, snuff, and other

tobacco products are purchased by distributors. For the purposes of this section the term "wholesale purchase price" shall mean the established price for which a manufacturer sells cigars, snuff, or other tobacco products to a distributor exclusive of any discount or other reduction. The proceeds of such tax, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the distributor on a calendar quarterly basis on or before the tenth day of the month following the quarterly period for which paid. The tax commissioner shall, however, have authority to prescribe monthly returns upon the request of the licensee distributor and such returns accompanied with remittance shall be filed before the tenth day of the month following the month for which the returns are filed.

2. Any person failing to file any prescribed forms of return or to pay any tax within the time required or permitted by this section shall be subject to a penalty of three five percent of the amount of tax due, plus one percent of such tax for each month of delay or fraction thereof excepting the portion of the month within which such return was required to be filed or such tax became due. The tax commissioner, if satisfied that the delay was excusable, may ~~remit~~ waive all or any part of such penalty. Such penalty shall be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.
3. All moneys received by the tax commissioner under provisions of this section shall be transmitted to the state treasurer at the end of each month and deposited in the state treasury to the credit of the general fund.
4. Repealed by S.L. 1975, ch. 106, § 673.

Approved March 29, 1985

CHAPTER 628

SENATE BILL NO. 2199
(Committee on Finance and Taxation)
(At the request of the Tax Commissioner)

ESTATE TAX FEDERALIZATION

AN ACT to amend and reenact subsection 8 of section 57-37.1-01 and subsection 1 of section 57-37.1-13 of the North Dakota Century Code, relating to definitions for estate tax purposes and depository notices of transfer of 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 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 through December 31, ~~1982~~ 1984.

SECTION 2. AMENDMENT. Subsection 1 of section 57-37.1-13 of 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 any amount paid that had a value in excess of five thousand dollars, and the name or names and addresses of the transferees, which notice shall be on a form ~~prescribed~~ approved by the tax commissioner. Such notice shall be filed with the tax commissioner ~~within~~ as soon as

practicable after the death of the decedent or not later than 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 22, 1985

CHAPTER 629

HOUSE BILL NO. 1392
(Moore)

INCOME TAX FEDERALIZATION DATE

AN ACT to amend and reenact subsection 3 of section 57-38-01 of the North Dakota Century Code, relating to the federalization date for North Dakota income tax purposes; and to provide an effective date.

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

SECTION 1. AMENDMENT. Subsection 3 of section 57-38-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "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 March 11, 1983, and shall be effective for all taxable years beginning after December 31, 1982 1984.
 - a. As to individuals, estates, trusts, and corporations, the crude oil windfall profit tax enacted as Public Law No. 96-223 (94 Stat. 229) shall be allowable as a deduction in computing taxable income for the first taxable year only, beginning on or after January 1, 1980, provided, that the deduction for a corporation shall not exceed one million dollars.
 - b. Except that the provisions of section 168(f)(8) of the Internal Revenue Code, are not adopted in those instances where the minimum investment by the lessor is less than one hundred percent for the purpose of computing North Dakota taxable income for individuals, estates, trusts, and corporations for taxable years beginning on or after January 1, 1983. Therefore, federal taxable income must be increased, or decreased, as the case may be, to reflect the adoption or nonadoption of the provisions of section 168(f)(8) of the Internal Revenue Code, and such adjustments

must be made before computing income subject to apportionment.

- e- b. Except that the deductions provided by the cost recovery provisions enacted as section 168 of the Internal Revenue Code, other than subsection (f)(8), cannot exceed seventy-five percent for the first taxable year beginning after December 31, 1982, and cannot exceed eighty-five percent for each of the next two taxable years beginning after December 31, 1983, for the purpose of computing North Dakota taxable income by individuals, estates, trusts, and corporations. Therefore, for the taxable year beginning after December 31, 1982, federal taxable income must be increased by twenty-five percent of any ACRS depreciation deducted in that taxable year for federal income tax purposes, and for each of the next two taxable years beginning after December 31, 1983, federal taxable income must be increased by fifteen percent of any ACRS depreciation deducted in each of the respective taxable years for federal income tax purposes. Provided, that one-half of the amount not allowed as a deduction for the taxable year beginning after December 31, 1982, may be deducted in each of the next two taxable years beginning after December 31, 1985, and one-half of the amount not allowed as a deduction for the taxable year beginning after December 31, 1983, may be deducted in each of the next two years beginning after December 31, 1987, and one-half of the amount not allowed as a deduction for the taxable year beginning after December 31, 1984, may be deducted in each of the next two taxable years beginning after December 31, 1989. All such adjustments must be made before computing income subject to apportionment.
- d- c. Provided, that the depreciation adjustments allowed in subdivision c shall be limited to those eligible assets acquired during taxable years beginning after December 31, 1982. Acquisitions made before taxable years beginning January 1, 1983, must be depreciated pursuant to the methods permissible under Internal Revenue Code provisions in effect prior to January 1, 1981.
- d. Except that for purposes of applying the Internal Revenue Code of 1954, as amended, with respect to actual distributions made after December 31, 1984, by a domestic international sales corporation, or former domestic international sales corporation, which was a domestic international sales corporation on December 31, 1984, any accumulated domestic international sales corporation income of a domestic international sales corporation, or former domestic

international sales corporation, which is derived before January 1, 1985, shall not be treated as previously taxed income.

SECTION 2. EFFECTIVE DATE. The provisions of this Act are effective for taxable years beginning after December 31, 1984.

Approved March 22, 1985

CHAPTER 630

SENATE BILL NO. 2221
(Committee on Finance and Taxation)
(At the request of the Tax commissioner)

INCOME TAX, INCOME AVERAGING, AND PARTNERSHIP INCOME

AN ACT to amend and reenact subdivision c of subsection 1 of section 57-38-01.2, subdivision c of subsection 1 of section 57-38-01.3, sections 57-38-08 and 57-38-10, subsection 3 of section 57-38-34, section 57-38-35.1, subsections 2, 5, and 6 of section 57-38-38, subdivisions b, c, and d of subsection 1 of section 57-38-45, section 57-38-64, subsections 2, 3, and 6 of section 57-38.2-01, and section 57-38.2-03 of the North Dakota Century Code, relating to income tax; and to provide an effective date.

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

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

- c. Reduced by the amount of federal income tax liability, but not social security and self-employment taxes, as computed under chapter 1 of the Internal Revenue Code of 1954, as amended, for the same taxable year for which the North Dakota return is being filed, to the extent that such taxes are computed upon income which becomes a part of the North Dakota taxable income. However, such federal income tax liability shall be reduced by all credits thereon except credits for federal income tax withholding payments, estimates of federal income tax, and income taxes of foreign countries. Federal income taxes for prior periods assessed against the taxpayer by reason of audit or other adjustment by the internal revenue service, or voluntary disclosure by the taxpayer, are not deductible except in the period in which income so taxed was reported or reportable and when or in which an adjustment was required but only after an adjustment is made by or with the office of the state tax commissioner. A refund of federal income tax shall be reported and included in North Dakota taxable

income in the year in which the tax was originally deducted.

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

- c. Reduced by the amount of federal income taxes, paid or accrued as the case may be during the applicable tax year, adjusted by any federal income tax refunds, to the extent that such taxes were paid or accrued upon income which becomes a part of the North Dakota taxable income. Federal income taxes for prior periods assessed against the taxpayer by reason of audit or other adjustment by the internal revenue service, or voluntary disclosure by the taxpayer, are not deductible except in the period in which income so taxed was reported or reportable or in which an adjustment was required but only after an adjustment is made by or with the office of the state tax commissioner. A refund of federal income tax shall be reported and included in North Dakota taxable income in the year in which the tax was originally deducted.

SECTION 3. AMENDMENT. Section 57-38-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-08. Partnerships not subject to tax. Partnerships shall not be subject to tax under this chapter, but the individual members of a partnership. Persons carrying on a business as partners shall be taxable on their share of the net profits of such a partnership whether the same are distributed or not, and shall be entitled to deduct their share of any net losses suffered by the partnership.

* SECTION 4. AMENDMENT. Section 57-38-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-10. Allocation and apportionment of partnership income. The income or loss of a partnership shall be allocated and apportioned to North Dakota and outside North Dakota as the income or loss of a corporation is allocated and apportioned to the state and outside the state.

SECTION 5. AMENDMENT. Subsection 3 of section 57-38-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Returns for cooperatives, domestic international sales corporations, and foreign sales corporations, however, made on the basis of the calendar year shall be filed on or before the fifteenth day of September following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the fifteenth

* NOTE: Section 57-38-10 was also amended by section 2 of House Bill No. 1648, chapter 633.

day of the ninth month following the close of the fiscal year.

SECTION 6. 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 of refunds.

1. No refunds shall be made by the tax commissioner to any taxpayer unless the amount to be refunded, including interest, is at least five dollars.
2. No remittance of tax need be made nor any assessment or collection of tax should be made unless the amount, is at least five dollars, including penalties and interest.
3. All refunds and credits for overpayment to any taxpayer, including excess income tax withheld or overpayment of estimated tax, may be applied to payment of taxpayer's unpaid tax, interest, or penalty or delayed until taxpayer's delinquent returns have been filed.
4. Interest of ~~eleven~~ nine 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.
5. If the amount of tax imposed by this chapter 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 7. AMENDMENT. Subsections 2, 5, and 6 of section 57-38-38 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. If there is a person understates change in taxable income or federal income tax liability by an amount which is in excess of twenty-five percent of the amount of taxable income or federal income tax liability stated in the return as filed, ~~the~~ any additional tax determined due may be assessed any time within six years after the due date of the return, or six years after the return was filed, whichever period expires later.
5. a. If the amount of taxable income or federal income tax liability for any year of any person as returned to the United States treasury department is changed or corrected by the commissioner of internal revenue or other office of the United States or other competent authority, or where a renegotiation of a contract or

- subcontract within the United States results in a change in taxable income or federal income tax liability, the person shall report the changed or corrected income, or the changed or corrected federal income tax liability, or the results of the renegotiation, within thirty days after the final determination of the change or correction or renegotiation, by filing an amended state income tax return, or other information as required by the tax commissioner and shall concede the accuracy of the determination or state wherein it is erroneous.
- b. Any person filing an amended return with such department as set forth above shall also file within thirty days thereafter an amended state income tax return with a copy of such federal amended return with the tax commissioner. If the person files an amended return or a report disclosing changes or corrections to federal taxable income or to federal income tax liability, the assessment of a deficiency may be made at any time within two years from the date such report or amended return was filed by the person, even though other time periods for the assessment of tax may have expired during the thirty-day period.
 - c. Any person who consents to an extension of time for the assessment of taxes with the internal revenue service shall be presumed to have consented to a similar extension of time for the assessment or refund of state income tax with the state tax commissioner.
 - d. Failure to report such changed or corrected federal taxable income or federal income tax liability or to file amended state income tax returns with a copy of such amended federal return within the prescribed thirty days shall suspend the running of the period of limitation for making an additional assessment for state income tax purposes until one year following the filing of such return or report with the tax commissioner.
6. Where before the expiration of the time prescribed for the assessment of tax, the tax commissioner and the person consent in writing to an extension of time for the assessment of the tax, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. Provided, that if the person refuses to agree to such an extension of time or renewal thereof, the tax commissioner may issue an assessment based on the best information available.

SECTION 8. AMENDMENT. Subdivisions b, c, and d of subsection 1 of section 57-38-45 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- b. If any amount of tax imposed by this chapter, including tax withheld by an employer, is not paid on or before the due date or extended due date for such payment, there shall be added to the tax interest at the rate of one percent of such tax for each month or fraction of a month during which the tax remains unpaid, computed from the due date ~~or extended due date~~ of the return to the date paid excepting the month in which the return was required to be filed or the tax became due.
- c. If upon audit an additional tax is found to be due, there shall be added to the additional tax due interest at the rate of one percent of such additional tax for each month or fraction of a month during which the tax remains unpaid, computed from the due date ~~or extended due date~~ of the return to the date paid, excepting the month in which the return was required to be filed or the tax became due.
- d. If the mathematical verification of a taxpayer's return results in additional tax due, there shall be added to the additional tax interest at the rate of one percent of such additional tax due for each month or fraction of a month during which the tax remains unpaid, computed from the due date ~~or extended due date~~ of the return to the date paid, excepting the month in which the return was required to be filed or the tax became due.

SECTION 9. AMENDMENT. Section 57-38-64 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-64. Amendment of declaration. ~~An individual~~ Any person may amend a declaration of estimated income and make the adjusted payments of tax due thereon under the regulations of the tax commissioner.

SECTION 10. AMENDMENT. Subsections 2, 3, and 6 of section 57-38.2-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. "Average base period income" means ~~one-fourth~~ one-third of the sum of the base period incomes for the base period.
3. "Base period" means the ~~four~~ three taxable years immediately preceding the computation year.

6. "Internal Revenue Code of 1954, as amended" has the same meaning as provided in ~~subdivision a~~ of subsection 3 of section 57-38-01.

SECTION 11. AMENDMENT. Section 57-38.2-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38.2-03. Income averaging - Computation. If the taxpayer has averageable income for the computation year, and if the amount of such income exceeds three thousand dollars, then the tax imposed by section 57-38-29 for the computation year which is attributable to averageable income shall be ~~five~~ four times the increase in tax under such section which would result from adding twenty percent of such income to one hundred percent of average base period income.

SECTION 12. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1984, except for section 6 of this Act, which is to be effective for all refunds to be paid after June 30, 1985.

Approved March 22, 1985

CHAPTER 631

SENATE BILL NO. 2356
(Lashkowitz, Redlin)

ADOPTION DEDUCTION

AN ACT to create and enact a new paragraph to subdivision d of subsection 1 of section 57-38-01.2 of the North Dakota Century Code, to provide an adjustment to taxable income for adoption of a child; and to provide an effective date.

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

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

Reduced by one thousand dollars for each child under the age of twenty-one years adopted by the taxpayer. The reduction under this paragraph may be claimed only by an adoptive parent of an adopted child and the child must qualify as a dependent of the adoptive parent for federal income tax purposes. The reduction may be claimed by only one spouse, for spouses filing separately under this chapter. The reduction provided by this paragraph may be claimed only for the taxable year in which the adoption becomes final and the reduction does not apply to the adoption of children of the taxpayers' spouse.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1984.

Approved March 27, 1985

CHAPTER 632

SENATE BILL NO. 2186
(Christensen)

SPOUSES INCOME TAX RETURNS

AN ACT to amend and reenact section 57-38-01.15 and subsection 2 of section 57-38-31 of the North Dakota Century Code, relating to spouses who file separate income tax returns; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 57-38-01.15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-01.15. ~~Itemization~~ Proration and itemization of deductions and exemptions.

1. Any individual taxpayer Individual taxpayers filing a North Dakota income tax return returns pursuant to the provisions of this chapter, other than section 57-38-30.3, may itemize deductions in lieu of taking a standard the zero bracket amount deduction even though a standard the zero bracket amount 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 zero bracket amount deduction. This provision of law is effective for taxable years beginning on or after January 1, 1979. Itemized deductions must be apportioned between spouses in the proportion that the adjusted gross income of each bears to their combined gross income. Exemptions for themselves or their dependents are to be reported in the same way that they would have been reported in separate federal returns if separate federal returns had been filed.
2. If married persons file separate North Dakota income tax returns and one spouse elects to file pursuant to the provisions of section 57-38-30.3 and the other does not, the spouse that elects not to file pursuant to section 57-38-30.3 may either itemize or use the zero bracket amount deduction. Itemized deductions must be apportioned

between spouses in the proportion that the adjusted gross income of each bears to their combined gross income. The spouse not electing to file pursuant to section 57-38-30.3 is entitled to claim only those exemptions which pertain to that spouse.

SECTION 2. AMENDMENT. Subsection 2 of section 57-38-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. A husband and wife each having separate income may include their income in a single joint return, or if they have separate income from personal or professional services or from business or property in which the other has no ownership and if they file a joint federal income tax return in which such income is reported, they may file separate returns in which the separate income of each ~~and the deductions and exemptions for themselves or their dependents are~~ is reported in the same way that they would have been required to report ~~them~~ it in separate federal returns if they had filed separate federal returns.

A husband and wife who have income from property or business in which both have an ownership interest may file a single joint return in which the income of both, along with any other income they may be required to report, is included, or they may file separate returns in the same way as provided in the preceding paragraph; provided, that the income from the property or business in which both have an ownership interest shall be allocated between them according to the capital interest of each, the management and control exercised by each, and the services performed by each with respect to such property or business, pursuant to rules and regulations promulgated by the tax commissioner for the reasonable allocation thereof.

SECTION 3. EFFECTIVE DATE. The provisions of this Act are effective for taxable years beginning after December 31, 1984.

Approved April 11, 1985

CHAPTER 633

HOUSE BILL NO. 1648
(A. Hausauer)

(Approved by the Committee on Delayed Bills)

TRADE OR BUSINESS INCOME REPORTING

AN ACT to amend and reenact subdivision b of subsection 6 of section 57-38-04 and section 57-38-10 of the North Dakota Century Code, relating to applicability of the Uniform Division of Income Tax Act to and reporting of income derived for carrying on a trade or business by residents of this state; and to provide an effective date.

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

SECTION 1. AMENDMENT. Subdivision b of subsection 6 of section 57-38-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. Income derived from carrying on a trade or business by residents of this state shall be assigned to this state without regard to where such trade or business is conducted, and the provisions of chapter 57-38.1 do not apply. If the taxpayer believes the operation of this subdivision with respect to the taxpayer's income is unjust, the taxpayer may petition the tax commissioner who may allow use of another method of reporting income, including separate accounting.

* SECTION 2. AMENDMENT. Section 57-38-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-10. Allocation and apportionment of partnership income. The income or loss of a partnership shall be allocated and apportioned to North Dakota and outside North Dakota as the income or loss of a corporation is allocated and apportioned to the state and outside the state. Provided, however, that those partners, limited to individuals, estates, and trusts who are residents of this state, must report their entire distributive share to this state, as provided in subdivision b of subsection 6 of section 57-38-04, and may claim a credit for taxes paid to another state on that portion of their distributive share attributable to and taxed by another state, as provided in subdivision c of subsection 6 of section 57-38-04.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1984.

Approved March 27, 1985

* NOTE: Section 57-38-10 was also amended by section 4 of Senate Bill No. 2221, chapter 630.

CHAPTER 634

HOUSE BILL NO. 1320
(Strinden, Mertens)

INCOME TAX RATES EXTENDED

AN ACT to amend and reenact section 6 of chapter 632 of the 1983 Session Laws of North Dakota, relating to effective dates and to make permanent the income tax rates and the repeal of the energy cost relief credit as enacted on a temporary basis by the 1983 Legislative Assembly.

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

SECTION 1. AMENDMENT. Section 6 of chapter 632 of the 1983 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION	6.	EFFECTIVE	DATE	--EXPIRATION	DATE.
Sections 2, 3, 4, and 5 of this Act		are effective for the first			
three taxable years beginning after		December 31, 1982, and			
thereafter are ineffective. The provisions		of sections 57-38-29,			
57-38-29-1, 57-38-30, and subsection 2		of section 57-38-30-3 as			
these sections existed on December 31,		1982, shall be in effect			
after the taxable years for which this		Act is effective.			

Approved March 14, 1985

CHAPTER 635

HOUSE BILL NO. 1646

(Unhjem)

(Approved by the Committee on Delayed Bills)

FEDERAL INCOME TAX LIABILITY DEFINED

AN ACT to amend and reenact subsection 5 of section 57-38-30.3 of the North Dakota Century Code, relating to the definition of "federal income tax liability" for purposes of the simplified optional method of computing income taxes; and to provide an effective date.

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

SECTION 1. AMENDMENT. Subsection 5 of section 57-38-30.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. For the purposes of this section, the term "federal income tax liability" means the individual's, estate's, or trust's federal income tax liability as computed for federal income tax purposes using tax tables or schedule TC, plus additional taxes due on federal income tax schedules or forms 4970, 4972, 5544, 5405, section 72(m)(5) penalty tax, 4625, 6251, and 5329, and before credit for contributions to candidates for public office, credit for the elderly (schedule R&RP), credit for child and dependent care expenses (form 2441), investment credit (form 3468), foreign tax credit (form 1116), work incentive credit (form 4874), jobs credit (form 5884), residential energy credit (form 5695), and before reduction for federal income tax withheld, estimated payments, earned income credit, excess Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code of 1954, as amended), and the federal Railroad Retirement Tax Act (chapter 22 of the Internal Revenue Code of 1954, as amended), taxes withheld, credit for federal taxes on special fuels and oils, and regulated investment company credits. The term does not include amounts due for self-employment tax or social security tax and railroad retirement tax on tips. For purposes of this subsection, additional taxes due on federal income tax form 6251 shall be reduced, but not below zero, by the amount of any

investment credit used to reduce the federal tax liability before calculation of the additional tax due on form 6251.

SECTION 2. EFFECTIVE DATE. The provisions of this Act are effective for taxable years beginning on or after December 31, 1984.

Approved March 29, 1985

CHAPTER 636

HOUSE BILL NO. 1500
(Sauter)

CORPORATE OFFICER TAX LIABILITY

AN ACT to create and enact section 57-38-60.1 of the North Dakota Century Code, relating to corporate officer liability for compliance with income tax laws; and to amend and reenact section 57-38-61 of the North Dakota Century Code, relating to corporate officer liability for withholding tax.

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

SECTION 1. Section 57-38-60.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-60.1. Corporate officer liability. If a corporation is an employer, as defined in subsection 3 of section 57-38-58, and fails for any reason to file the required returns or to pay the tax due, the chairman, president, or chief operating officer, jointly or severally charged with the responsibility of supervising the preparation of such returns and payments shall be personally liable for such failure. The dissolution of a corporation shall not discharge an officer's liability for a prior failure of the corporation to file a return or remit the tax due. The taxes, penalty, and interest may be assessed and collected pursuant to the provisions of this chapter.

* SECTION 2. AMENDMENT. Section 57-38-61 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-61. Provisions of chapter applicable. The provisions of sections 57-38-34, 57-38-38, 57-38-39, 57-38-40, 57-38-44, 57-38-45, 57-38-46, 57-38-47, 57-38-52, 57-38-53, 57-38-54, 57-38-55, 57-38-56, and 57-38-57 shall, insofar as consistent therewith, govern the administration of sections 57-38-58, 57-38-59, and 57-38-60, and 57-38-60.1. The term "employer" as used in sections 57-38-58, 57-38-59, and 57-38-60, and 57-38-60.1 shall also mean "taxpayer" as used in this chapter. In addition, the authority of the tax commissioner to prescribe rules and regulations shall include the authority to make such agreements with the United States government or any of its agencies as are necessary to provide for the deducting and withholding of tax from the wages of federal employees in the state of North Dakota.

Approved March 29, 1985

* NOTE: Section 57-38-61 was also amended by section 148 of Senate Bill No. 2086, chapter 82.

CHAPTER 637

HOUSE BILL NO. 1343
(A. Hausauer)

ESTIMATED TAX PAYMENT

AN ACT to amend and reenact section 57-38-62 of the North Dakota Century Code, relating to declaration of estimated tax; to provide an effective date; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 57-38-62 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-62. Declaration of estimated income.

1. All nonresident individual taxpayers shall, and resident individual taxpayers may, at the time prescribed in this chapter, make a declaration of their estimated tax for the taxable year, containing such information as the tax commissioner may prescribe by rules and regulations, if their estimated tax due the state from all sources, including wages, salaries, bonuses, or other emoluments, not subject to withholding, can reasonably be expected to exceed one hundred dollars.
2. All corporate taxpayers shall, at the time prescribed in this chapter, make a declaration of their estimated tax for the taxable year containing such information as the tax commissioner may prescribe by rules and regulations, if the taxpayer's estimated tax due the state from sources or business done in this state can reasonably be expected to exceed five thousand dollars.
3. The provisions of section 57-38-45 apply in case of failure to file or pay a declaration of estimated tax as required by this chapter, or if a declaration of estimated tax for any quarter is understated or underpaid by more than ten percent. No penalty is due if the total amount of all payments for estimated tax made on or before the due date for that installment equals or exceeds the total amount that would have been required to be paid on or before that date if the estimated tax equaled the tax

shown on the taxpayer's return for the preceding taxable year.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1984.

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

Approved March 14, 1985

CHAPTER 638

HOUSE BILL NO. 1663
(Committee on Finance and Taxation)
(At the request of the Office of Management and Budget)

CONTINGENT SALES TAX INCREASE

AN ACT to provide for a contingent sales and use tax increase if general fund revenue receipts fall below a specified level; and to provide an expiration date.

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

SECTION 1. Contingent sales and use tax increase.

1. The director of the office of management and budget shall consult the tax commissioner and state treasurer prior to May 10, 1986, and determine general fund revenue receipts for the period from July 1, 1985, through April 30, 1986. The director of the office of management and budget shall certify the amount of receipts so determined to the governor on or before May 15, 1986.
2. If the amount certified under subsection 1 is less than three hundred ninety-three million dollars, the rate of sales and use taxes on all items taxable under subsection 1 of section 57-39.2-02.1 or subsection 1 of section 57-40.2-02.1 shall be increased by one percentage point for the period beginning July 1, 1986, and ending March 31, 1987, unless the governor certifies to the tax commissioner on or before May 31, 1986, that a tax increase is not necessary.
3. The decision of the governor under subsection 2 that a tax increase is not necessary shall be based upon the following guidelines and considerations:
 - a. A review of the effect on projections by the office of management and budget of the state general fund balance on June 30, 1987, if the tax increase provided in this section does not become effective.

- b. Any revenue collections that will be deposited in the general fund during the remainder of the biennium, including effects on cash flow.
 - c. The effect on the economic welfare of the state and its citizens of the tax increase provided in this section.
 - d. The effect of changes in oil prices or other economic indicators on projections of general fund revenue for the remainder of the biennium.
 - e. The effect of reductions in general fund expenditures which the governor has effectuated or which the governor will effectuate for the remainder of the biennium.
4. For the purposes of administering this section, the provisions of chapters 57-39.2 and 57-40.2 concerning the imposition, collection, distribution, and administration of the sales and use taxes shall govern the taxes levied pursuant to this section.
 5. The tax commissioner is authorized to adjust administratively the bracket system contained in section 57-39.2-08.2 to reflect any change in tax rates which is caused by operation of this section.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 1987, and thereafter is ineffective.

Approved April 16, 1985

CHAPTER 639

HOUSE BILL NO. 1327
(Schneider, Moore)

SALES TAX EXEMPTION REMOVED FROM CANDY AND CERTAIN BEVERAGES

AN ACT to amend and reenact sections 57-39.2-04.1 and 57-40.2-04.1 of the North Dakota Century Code, to remove the sales and use tax exemption for candy, chewing gum, carbonated beverages, powdered drink mixes, and certain soft drinks.

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

SECTION 1. AMENDMENT. Section 57-39.2-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-04.1. Sales tax exemption for food and food products. Beginning July 1, 1973, gross receipts from sales for human consumption of food and food products including but not limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, poultry and fish and other fresh and saltwater animal products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products ~~including candy and confectionary products, chewing gum, coffee and coffee substitutes, tea, and cocoa and cocoa products, and carbonated beverages~~ when purchased by consumers for consumption off the premises where purchased, shall be exempt from the sales tax imposed by this chapter. "Food" and "food products" as used herein shall not include any alcoholic beverages or mixed drinks made therefrom, candy, chewing gum, carbonated beverages, beverages commonly referred to as soft drinks containing less than seventy percent fruit juice, powdered drink mixes, or medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

SECTION 2. AMENDMENT. Section 57-40.2-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-04.1. Use tax exemption for food and food products. Beginning July 1, 1973, gross receipts from sales for human

consumption of food and food products including but not limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, poultry and fish and other fresh and saltwater animal products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products ~~including candy and confectionary products; chewing gum~~, coffee and coffee substitutes, tea, and cocoa and cocoa products, ~~and carbonated beverages~~ when purchased by consumers for consumption off the premises where purchased, shall be exempt from the use tax imposed by chapter 57-40.2. "Food" and "food products" as used herein shall not include any alcoholic beverages or mixed drinks made therefrom, candy, chewing gum, carbonated beverages, beverages commonly referred to as soft drinks containing less than seventy percent fruit juice, powdered drink mixes, or medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

Approved April 15, 1985

CHAPTER 640

HOUSE BILL NO. 1374
(Representative Moore)
(Senator Adams)

MONTHLY SALES TAX COLLECTIONS

AN ACT to amend and reenact subsection 1 of section 57-39.2-12 and subsection 7 of section 57-40.2-07 of the North Dakota Century Code, relating to the due date of monthly sales and use tax returns, and payment of the tax due.

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

SECTION 1. AMENDMENT. Subsection 1 of section 57-39.2-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The tax levied under this chapter shall be due and payable in quarterly installments on or before the last day of the month next succeeding each calendar quarterly period, except that if total sales subject to sales and use taxes for the preceding calendar year for any business which has been issued a sales tax permit equal or exceed three hundred thirty-three thousand dollars, the tax levied under this chapter shall be payable monthly on or before the twenty-second last day of the next succeeding month, except tax collected during May 1987 is payable on or before the twenty-second day of June 1987. The retailer shall pay an estimated tax of at least ninety-five percent of the tax due on a monthly basis the total tax due in the manner prescribed by the commissioner. Within thirty days after the end of each quarterly period, any retailer required to pay the tax on a monthly basis shall file a return with the commissioner showing gross receipts, tax due, the amount of tax paid for each month of the quarterly period and such other information as the commissioner requires. At the time of filing the return, the retailer shall pay any balance of tax due for the quarterly period. If such monthly payment is not made or if the return indicates or, if upon audit, it is determined that less than ninety-five percent of the tax due was paid, the retailer shall be subject to a penalty of five percent of the amount below ninety-five percent

left unpaid for each month or fraction thereof in which it remains unpaid to the date the quarterly report is due. After such time, penalties and interest for failure to file a return, for filing an incorrect return, or for failure to pay the tax due shall be those prescribed in section 57-39.2-18. If the commissioner is satisfied that the nonpayment or payment of less than ninety-five percent of the tax due was excusable, the commissioner may waive and, if paid, refund all or any part of such penalty. If the total of sales subject to such taxes decreases below three hundred thirty-three thousand dollars for any succeeding year, the retailer shall return to quarterly filing and payments. When there is a sale of any business by any retailer or when any business is discontinued by a retailer, the tax shall become due immediately prior to the sale or discontinuance of such business and if not paid within fifteen days thereafter it shall become delinquent and subject to the penalties provided in section 57-39.2-18.

SECTION 2. AMENDMENT. Subsection 7 of section 57-40.2-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. If total sales and purchases subject to sales and use taxes for the preceding calendar year equal or exceed three hundred thirty-three thousand dollars, the tax levied by this chapter shall be payable monthly on or before the twenty-second last day of the next succeeding month, except for taxes collected during May 1987 which are payable on or before the twenty-second day of June 1987. The amount of monthly tax payable, manner of payment, filing of the return, penalty, and waiver of penalty shall be that prescribed in subsection 1 of section 57-39.2-12. After the quarterly return is due, penalty Penalty and interest for failure to file a return or corrected return or to pay the tax imposed shall be that prescribed in section 57-40.2-15. If a person is required to file more than one return pursuant to this section, the monthly payment requirement shall apply separately to each return. If total sales and purchases subject to sales and use taxes for any succeeding calendar year decrease below three hundred thirty-three thousand dollars, such person may return to quarterly installments.

Approved March 22, 1985

CHAPTER 641

HOUSE BILL NO. 1300
(Schneider)

SALES TAX AUDITS

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to extensions of time to perform sales tax audits; and to amend and reenact subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code, relating to the imposition of the sales tax.

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:

Extensions of time to perform sales tax audits. Before the expiration of time prescribed in section 57-39.2-15 for the assessment of tax, the commissioner and the taxpayer may agree in writing to an extension of time for the assessment of the tax. The tax may be assessed at any time prior to the expiration of the period agreed upon. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. No extension shall be for more than one year from the date of the extension agreement.

SECTION 2. AMENDMENT. Subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes used for residential or business purposes and for sales of farm machinery and irrigation equipment used exclusively for agricultural purposes and except as otherwise expressly provided in this chapter, there is imposed a tax of four percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within the state of North Dakota of the following to consumers or users:

- a. Tangible personal property, consisting of goods, wares, or merchandise, except mobile homes used for residential or business purposes and farm machinery and irrigation equipment used exclusively for agricultural purposes.
- b. The furnishing or service of ~~steam other than steam used for processing agricultural products, gas, or communication services, or steam other than steam used for processing agricultural products.~~
- c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity, and including the playing of any machine for amusement or entertainment in response to the use of a coin.
- d. Magazines and other periodicals.
- e. The leasing or renting of a hotel or motel room or tourist court accommodations.
- f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under chapter 57-40.2.

Approved March 14, 1985

CHAPTER 642

SENATE BILL NO. 2299
(Senator Peterson)
(Representative Nalewaja)

USE TAX IN LONG-TERM CARE FACILITIES

AN ACT to amend and reenact subsection 3 of section 57-40.2-03.3 of the North Dakota Century Code, relating to use tax on contractors.

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

SECTION 1. AMENDMENT. Subsection 3 of section 57-40.2-03.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The tax imposed by this section shall not apply to medical equipment purchased as tangible personal property by a hospital or by a long-term care facility as defined in section 50-10.1-01 and subsequently installed by a contractor into such hospital or facility.

Approved March 22, 1985

CHAPTER 643

SENATE BILL NO. 2241
(Committee on Finance and Taxation)
(At the request of the Tax Commissioner)

USE TAX RECORDS

AN ACT to amend and reenact sections 57-40.2-06 and 57-40.2-09 of the North Dakota Century Code, relating to payment of use tax and records preservation for use tax purposes.

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

SECTION 1. AMENDMENT. Section 57-40.2-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-06. **Payment of tax.** The tax imposed by this chapter shall be paid in the following manner:

1. The tax upon tangible personal property which is sold by a retailer maintaining a place of business in this state, or by such other retailer as the commissioner shall authorize pursuant to subsection 2 of section 57-40.2-07, shall be collected by the retailer and remitted to the commissioner as provided by section 57-40.2-07; provided, that any such retailer shall not collect the tax on any purchases made by a contractor who furnishes to the retailer a certificate which includes the contractor's license number assigned to him under the provisions of chapter 43-07 and the use tax account number assigned to him by the commissioner pursuant to section 43-07-04. Such certificate shall be in the form prescribed by the commissioner and shall be furnished by the contractor to the retailer each calendar year prior to the making of any purchases during such calendar year from the retailer without liability for paying the tax to the retailer. ~~Any contract awarded prior to April 1, 1967, the contractor receiving the award, shall be liable only for the use tax at the rate of tax in effect on the date of the contract.~~
2. The tax, when not paid in conformity with subsection 1 of this section, shall be paid to the commissioner directly by any person storing, using, or consuming such property

within this state, pursuant to the provisions of section 57-40.2-07.

SECTION 2. AMENDMENT. Section 57-40.2-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-09. Records required. Each retailer required or authorized to collect the tax imposed by this chapter, and each person using in this state tangible personal property purchased shall keep such records, receipts, invoices, and other pertinent papers as the commissioner shall require and each such retailer or person shall preserve for a period of three years and three months all invoices and other records of such tangible personal property purchased for resale or for use. The commissioner, or any duly authorized agent, may examine the books, papers, records, and equipment of any person who sells tangible personal property or who is liable for such tax, and may investigate the character of the business of any such person to verify the accuracy of any return made, or if no return was made, to ascertain and determine the amount due. Any such books, papers, and records shall be made available within this state for such examination upon reasonable notice if the commissioner shall make an order to that effect.

Approved March 22, 1985

CHAPTER 644

HOUSE BILL NO. 1193
(Committee on Finance and Taxation)
(At the request of the Tax Commissioner)

AIRCRAFT EXCISE TAX REFUNDS

AN ACT to create and enact two new sections to chapter 57-40.5 of the North Dakota Century Code, relating to aircraft excise tax refunds and a procedure for refunding; and to provide an appropriation.

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

SECTION 1. A new section to chapter 57-40.5 of the North Dakota Century Code is hereby created and enacted to read as follows:

Aircraft excise tax refunds - Three-year limitation. If it appears that any aircraft excise tax paid on or after July 1, 1983, was paid in error, or for any other reason the tax was not due under the provisions of chapter 57-40.5, the tax shall be refunded to the person who paid the tax upon an application made and duly allowed in accordance with this Act, provided that the application is made within three years from the date of payment of the tax.

SECTION 2. A new section to chapter 57-40.5 of the North Dakota Century Code is hereby created and enacted to read as follows:

Procedure for refunding. Any person entitled to a refund of aircraft excise tax, may make application for refund to the tax commissioner in the manner prescribed by the commissioner. Upon the presentation of proof satisfactory to the commissioner, the commissioner shall authorize the refund to be made from moneys appropriated for that purpose. No refund shall be authorized by the commissioner until the commissioner is fully satisfied through the production of necessary purchase agreements, tax receipts, and other documents and information that the refund is warranted. Payment of the refund shall be made by warrant after approval by the office of management and budget and approval of the voucher by the office of the budget.

SECTION 3. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, as a standing and continuing appropriation, such sums as may be necessary to provide for aircraft excise tax refunds under this Act.

Approved January 30, 1985

CHAPTER 645

SENATE BILL NO. 2319
(Senators Olson, Lodoen)
(Representative Rydell)

EMERGENCY SERVICES COMMUNICATION

AN ACT to authorize counties or cities to impose an excise tax on telephone access lines for funding emergency services communication systems.

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

SECTION 1. Definitions. In this Act, unless the context or subject matter otherwise requires:

1. "Emergency services communication system" means a countywide or citywide radio system, land lines communication network, or emergency 911 telephone system, which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for law enforcement, fire, medical, or other emergency services.
2. "Telephone access line" means the telephone service line that connects a subscriber's main telephone or equivalent main telephone to the telephone company's switching office.

SECTION 2. Authority of counties or cities to impose excise tax on telephone access lines - Procedure. The governing body of a county or city may impose an excise tax on the use of telephone access lines in accordance with the following requirements:

1. The governing body shall adopt a resolution that proposes the adoption of the excise tax permitted under this section. The resolution must specify an effective date for the tax which is no more than one year before the expected implementation date of the emergency services communication system to be funded by the excise tax. The resolution must include a provision for submitting the proposed excise tax to the electors of the county or city before the imposition of the tax is effective. The

resolution must specify a tax that does not exceed fifty cents per month per telephone access line.

2. The question of the adoption of the excise tax must be submitted on a ballot on which the ballot title of the proposition includes the maximum monthly rate of the proposed tax authorized under subsection 1. The tax is not effective unless it is approved by a majority of the electors voting on the proposition. The ballot must be worded so that a "yes" vote authorizes imposition of the tax.
3. If the tax authorized by this section is approved by the electors, the tax may be reimposed for six years without resubmitting the question to the electors.
4. If the equipment necessary to establish an emergency service communication system is not available from a telephone company serving the county or city and would prove to be economically infeasible to install based on the surcharge in this section, the county or city may not impose the excise tax. In any geographic area, only one political subdivision may impose the excise tax.

SECTION 3. Payment of tax by telephone company subscriber. The resolution imposing a tax under section 2 of this Act must include a requirement that the telephone company collect the tax from the subscriber. In its billing statement to the subscriber, the telephone company shall state the amount of the tax separately.

SECTION 4. Tax collection procedure. A resolution adopted under section 2 of this Act must include adequate procedures for the administration and collection of the tax, including a provision for reimbursement to the telephone company for the actual costs of administration in collection of the tax. The resolution must also include a provision that the tax be paid by the telephone company within thirty days after it is collected from the subscriber.

SECTION 5. Restriction on use of tax proceeds. The county may not use the proceeds of the tax imposed under section 2 of this Act for any purpose other than establishing or operating the emergency services communication system.

Approved March 29, 1985

CHAPTER 646

SENATE BILL NO. 2296
 (Senators Heigaard, Vosper, Wenstrom)
 (Representatives Kingsbury, Stofferahn)

ALCOHOL-BLENDED FUELS TAX REDUCTION

AN ACT to amend and reenact section 57-43.1-02 of the North Dakota Century Code, relating to the tax imposed on motor vehicle fuels and a tax reduction for certain alcohol-blended fuels; and to provide that the Act is severable.

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

SECTION 1. AMENDMENT. Section 57-43.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-43.1-02. Tax imposed on motor vehicle fuels - Tax reduced for agriculturally derived certain alcohol-blended fuels.

1. Except as otherwise provided in this section, a tax of thirteen cents per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state.
2. The tax imposed on gasoline sold which contains a minimum ten percent blend of an agricultural ethyl a qualifying alcohol or methanol whose purity is at least ninety-nine percent alcohol is reduced in accordance with this subsection and subsection 3. An alcohol is a qualifying alcohol if it is methanol produced from coal or if the taxpayer certifies that it is derived from agricultural products produced entirely in the United States. For qualifying alcohols, the tax is:
 - a. Through December 31, 1983, four cents per gallon {3.79 liters} less than the tax imposed under subsection 1.
 - b. From January 1, 1984, through December 31, 1984, five cents per gallon {3.79 liters} less than the tax imposed under subsection 1.

- e- From January 1, 1985, through December 31, 1985, six cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
 - d- From January 1, 1986 July 1, 1985, through June 30, 1992 1987, four eight cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
 - e- b. From July 1, 1987, through December 31, 1992, four cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
 - c. After June 30 December 31, 1992, at the same rate as the tax imposed under subsection 1.
3. The tax reduction allowed on gasoline under this section does not apply to gasoline which contains qualifying alcohol manufactured or distilled outside this state, unless the state where the alcohol is manufactured or distilled provides a specific reduction, exemption, credit, or refund from that state's motor vehicle fuels tax for what would be a qualifying alcohol manufactured or distilled in this state. Qualifying alcohols manufactured or distilled in another state are eligible for the tax reduction allowed by this section, but only to the extent that state's specific reduction, exemption, credit, or refund allowance applies to qualifying alcohol manufactured or distilled in this state. The tax reduction allowed by this subsection qualifying alcohol manufactured or distilled in another state cannot exceed the amount specified in subsection 2.
- 3- 4. The dealer shall collect the tax imposed by this section from the consumer on all sales.
- 4- 5. Sales of fuel in the original package may be made to a licensed dealer, and the dealer may collect the tax imposed by this chapter, but on sales in the original package to persons other than licensed dealers, the dealer is liable for the tax.

SECTION 2. **Severability.** If for any reason the provision in section 57-43.1-02 requiring the alcohol to be from agriculturally derived products produced in the United States is finally held by the courts to be unconstitutional, the reduction applies to alcohol derived from agricultural products regardless of the place of production.

Approved April 5, 1985

CHAPTER 647

SENATE BILL NO. 2354
(Mutch)

FUEL DEALER LICENSE FEES

AN ACT to amend and reenact subsection 2 of section 57-43.1-14, section 57-43.1-15, subsection 11 of section 57-43.2-01, and section 57-43.2-25 of the North Dakota Century Code, relating to license fees and definitions for various taxes.

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

SECTION 1. AMENDMENT. Subsection 2 of section 57-43.1-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. At the time of applying for a license, the applicant shall pay to the commissioner as a license fee the sum of ~~two~~ twenty dollars. This fee must be paid into the state treasury and credited to the general fund.

SECTION 2. AMENDMENT. Section 57-43.1-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-43.1-15. License - Contents - Authority conferred. Upon the filing of an application for a license and payment of the fee to engage in business as a dealer in motor vehicle fuel, the commissioner shall issue to the applicant a license authorizing the applicant to engage in business in this state as a dealer, as defined in section 57-43.1-01, ~~until June thirtieth of the odd-numbered year following the date of issuance of the license,~~ unless the license is revoked ~~within that period~~ by the commissioner as provided by law.

SECTION 3. AMENDMENT. Subsection 11 of section 57-43.2-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11. "Special fuel user" means any person receiving or purchasing special fuel ~~except that it does not include a person purchasing or receiving special fuels when such~~

~~fuel is and includes fuel~~ to be used for heating, agricultural, or railroad purposes or for industrial purposes other than in the performance of a contract with any unit of government ~~nor shall it~~ but does not include a special fuels dealer purchasing or receiving special fuel for resale.

SECTION 4. AMENDMENT. Section 57-43.2-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-43.2-25. Liquefied petroleum gas dealers - License - Fee - Permits - Bond. It is unlawful for any person to act as a wholesale dealer in special fuel known as liquefied petroleum gas in this state unless the person is a holder of an uncanceled special liquefied petroleum gas dealer's license issued to that person by the commissioner, in addition to complying with all other provisions of this chapter. Application for the license must be made to the commissioner and a separate license is required for each separate place of business or location where liquefied petroleum gas is regularly sold, delivered, or placed into tanks of bulk supply vehicles for delivery into supply tanks of retail liquefied petroleum gas dealers or users. The cost of this license is ~~ten~~ twenty dollars, which amount must accompany each application, upon a form prepared and furnished by the commissioner. The application must contain the information the commissioner deems necessary, together with a surety bond in the form and amount as the commissioner requires, but not less than five hundred dollars, except that the commissioner may waive the filing of a bond if the commissioner finds such bond may be waived without impairing or jeopardizing the revenue collections of this state.

If any person deals only in the retail selling of liquefied petroleum gas, the provisions of sections 57-43.2-06 and 57-43.2-11 do apply, but in lieu of those provisions each liquefied petroleum gas retail dealer is required to apply to the commissioner for a liquefied petroleum gas retail dealer's permit. The cost of a permit issued by the commissioner is ~~one dollar and expires on June thirtieth of every odd-numbered year~~ twenty dollars. Each liquefied petroleum gas retail dealer shall collect the special fuels excise tax levied under section 57-43.2-03, and shall transmit quarterly all taxes collected to the commissioner. The commissioner shall furnish report forms requiring the information the commissioner deems necessary for the efficient administration of this section. The report must accompany the transmittal of all taxes collected by liquefied petroleum gas retail dealers.

Approved April 11, 1985

CHAPTER 648

HOUSE BILL NO. 1248
(Representative A. Hausauer)

SPECIAL FUELS TAXES ON COMPRESSED NATURAL GAS

AN ACT to amend and reenact subsection 9 of section 57-43.2-01 and subsection 1 of section 57-43.2-02 of the North Dakota Century Code, relating to imposition of special fuels taxes upon sales of compressed natural gas.

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

SECTION 1. AMENDMENT. Subsection 9 of section 57-43.2-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. "Special fuel" means all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles and includes compressed natural gas, all gases and liquids which meet the specifications as determined by the state laboratories department pursuant to the provisions of section 19-10-10, as well as all liquids determined by the state laboratories department to be heating oil pursuant to the provisions of section 19-10-10, and agriculturally derived alcohol if used in a pure state or if blended with another agriculturally derived liquid, except that it does not include either motor vehicle fuels as defined in section 57-43.1-01, or antifreeze as defined by section 19-16.1-02.

SECTION 2. AMENDMENT. Subsection 1 of section 57-43.2-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. An excise tax of thirteen cents per gallon [3.79 liters] is imposed on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, or railroad purposes or for industrial purposes other than in the performance of a contract with any unit of government is exempt from the tax imposed by this chapter, provided that the sale or delivery of special fuel for use in a motor vehicle is not

exempt. From July 1, 1983, through June 30, 1985, the tax imposed by this subsection on fuel consisting of a blend of diesel fuel and not less than ten percent recovered oil shall be four cents per gallon [3.79 liters] less than the nonagriculturally derived special fuel excise tax provided in this subsection. For the purpose of determining the tax upon compressed natural gas under this section, one hundred twenty cubic feet of compressed natural gas is equal to one gallon of other special fuel.

Approved February 15, 1985

CHAPTER 649

HOUSE BILL NO. 1345
(Hughes, A. Hausauer)

VALUATION OF RECLAIMED OIL

AN ACT to amend and reenact section 57-51-05.1 of the North Dakota Century Code, relating to the valuation of reclaimed oil for purposes of payment of the oil and gas gross production tax.

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

SECTION 1. AMENDMENT. Section 57-51-05.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-51-05.1. Reclamation of oil - Refiner to pay tax - Reports required. On all oil reclaimed from tank bottoms, pit oil, and saltwater the gross production tax shall be paid by the operator of the reclaiming plant, unless taxes have already been paid thereon. If tank bottom or pit oil material is removed from the lease by the operator of a treatment plant, the gross value of oil reclaimed from the material is the purchase price paid by the operator of the treatment plant for the material from which the oil is reclaimed. If the operator has not paid a cash price for the material, the oil reclaimed has no value at the well. Every person, firm, association, or corporation engaged in the sale, purchasing, and refining of tank bottoms, pit oil, and saltwater shall report to the commissioner, upon forms prescribed by the commissioner, information necessary to the enforcement of this section.

Approved March 14, 1985

CHAPTER 650

HOUSE BILL NO. 1361
(Moore)

COUNTY REVENUE FROM GROSS PRODUCTION TAX

AN ACT to amend and reenact subsection 2 of section 57-51-15 of the North Dakota Century Code, relating to a limitation on annual county revenue from the oil and gas gross production tax.

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

SECTION 1. AMENDMENT. Subsection 2 of section 57-51-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The first one million dollars of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county shall be allocated seventy-five percent to that county and twenty-five percent to the state general fund. The second one million dollars of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county shall be allocated fifty percent to that county and fifty percent to the state general fund. All annual revenue after the deduction of the amount provided for in subsection 1 above two million dollars from oil or gas produced in any county shall be allocated twenty-five percent to that county and seventy-five percent to the state general fund. However, the amount to which each county shall be entitled pursuant to this subsection shall be limited based upon the population of the county according to the last official decennial federal census as follows:

- a. Counties having a population of three thousand or less shall receive no more than three million nine hundred thousand dollars for each fiscal year of the ~~1983-85~~ biennium.
- b. Counties having a population of over three thousand but less than six thousand shall receive no more than

four million one hundred thousand dollars for each fiscal year of the 1983-85 biennium.

- c. Counties having a population of six thousand or more shall receive no more than four million six hundred thousand dollars for each fiscal year of the 1983-85 biennium.

Any allocations for any county pursuant to this subsection which exceed the applicable limitation for that county as provided in subdivisions a through c shall be deposited instead in the state's general fund.

Approved March 14, 1985

CHAPTER 651

HOUSE BILL NO. 1088
(Legislative Council)
(Interim Water Committee)

OIL EXTRACTION TAX DEVELOPMENT FUND ALLOCATION

AN ACT to amend and reenact section 57-51.1-07 of the North Dakota Century Code, relating to the allocations of moneys in the oil extraction tax development fund.

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

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

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

1. Ten percent shall be allocated and credited to the sinking fund established for payment of the state of North Dakota water development bonds, southwest pipeline series, and any moneys in excess of the sum necessary to maintain the accounts within the sinking fund and for the payment of principal and interest on the bonds, shall be credited to a special trust fund, to be known as the resources trust fund. The resources trust fund shall be established in the state treasury and the funds therein shall be deposited and invested as are other state funds to earn the maximum amount permitted by law which income shall be deposited in the resources trust fund. The principal and income of the resources trust fund may be expended only pursuant to legislative appropriation and shall be available to:
 - a. The state water commission for planning for and construction of comprehensive water supply facilities related projects, including rural water systems. These water-related projects must be those which the state water commission has the authority to undertake and construct pursuant to chapter 61-02; and

- b. The industrial commission for the funding of programs for development of energy conservation and renewable energy sources; for studies for development of cogeneration systems that increase the capacity of a system to produce more than one kind of energy from the same fuel; for studies for development of waste products utilization; and for the making of grants and loans in connection therewith.
2. Ninety percent shall be allocated and credited to the state's general fund for general state purposes.

Approved March 14, 1985

CHAPTER 652

HOUSE BILL NO. 1090
(Legislative Council)
(Interim Water Committee)

WATER PROJECT FUNDING FROM RESOURCES TRUST FUND

AN ACT to provide a procedure for seeking financial assistance for the development of water-related projects from the resources trust fund and to establish criteria governing review of applications for financial assistance for water-related projects from the resources trust fund.

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

SECTION 1. Resources trust fund - Procedure for review of applications for financial assistance for water-related projects.

1. A political subdivision or rural water system seeking loans, grants, or other financial assistance by legislative appropriation from the resources trust fund for a water-related project or study must submit the proposed water-related project or study to the state water commission for review. The commission may require the political subdivision or rural water system to supply information as it considers necessary to review the request. After consideration and review of the proposed water-related project or study, the state water commission may conduct or it may require the project sponsor to conduct a preliminary study for the proposed project or study. The preliminary study must be conducted in accordance with criteria established pursuant to subsection 3.
2. Every legislative bill appropriating moneys from the resources trust fund pursuant to subsection 1 must be accompanied by a state water commission report, which must include:
 - a. A summary of the engineering feasibility study of the proposed water project.

- b. Statements concerning the proposed water project as it relates to the comprehensive state water plan of the state water commission.
 - c. The need for the proposed water project, including any alternative projects which would satisfy such need.
 - d. The availability of other sources of funding or financial assistance for such water project.
 - e. A recommendation as to whether or not the proposed water project should receive financial assistance through legislative appropriation from the resources trust fund.
 - f. Other items as deemed necessary or appropriate by the state water commission.
3. The state water commission shall adopt rules for governing the review and recommendation of proposed water projects for which financial assistance by legislative appropriation from the resources trust fund is being sought under this section.

Approved February 22, 1985

CHAPTER 653

HOUSE BILL NO. 1081
(Legislative Council)
(Interim Political Subdivisions "A" Committee)

MOBILE HOME TAX PAYMENT AND PERMITS

AN ACT to amend and reenact sections 51-07-11, 57-22-18, 57-55-01.1, 57-55-02, 57-55-03, 57-55-04, 57-55-05, 57-55-06, 57-55-07, subsection 1 of section 57-55-10, and subsection 2 of section 57-55-11 of the North Dakota Century Code, relating to the payment of mobile home taxes and to tax permits.

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

SECTION 1. AMENDMENT. Section 51-07-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-07-11. Property sold under conditional sale contract not attached, repossessed, or acquired until taxes paid. Where personal property has been sold under a conditional sale contract and such contract has been canceled or foreclosed, the owner, holder, or assignee of such contract shall not attach, repossess, or acquire by bill of sale the property sold under the contract until the taxes levied upon such property have been paid ~~fully~~ as follows:

1. For property other than mobile homes subject to tax under chapter 57-55, all taxes levied upon the property must be paid in full.
2. For mobile homes subject to tax under chapter 57-55, the tax levied upon the property for the current year and the most recent preceding year must be paid in full.

SECTION 2. AMENDMENT. Section 57-22-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-18. Conditional sales - Taxes payable before change of possession. If personal property has been sold or transferred under a conditional sale contract, the owner, holder, or assignee of such contract shall not attach nor repossess such property nor acquire it by bill of sale, on account of the cancellation or foreclosure of such contract, until the taxes levied upon the said property have been paid ~~in full~~ as follows:

1. For property other than mobile homes subject to tax under chapter 57-55, all taxes levied upon the property must be paid in full.
2. For mobile homes subject to tax under chapter 57-55, the tax levied upon the property for the current year and the most recent preceding year must be paid in full.

SECTION 3. AMENDMENT. Section 57-55-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-01.1. Taxation of mobile homes. The owner of each mobile home shall file an application for a mobile home tax ~~deed~~ permit with the director of tax equalization in the county in which the mobile home is located on or before January tenth of each year or within ten days after ~~such~~ the mobile home is purchased or first moved into this state. Upon payment of the tax to the county treasurer, a mobile home tax ~~deed~~ permit shall be issued to the owner of the mobile home. The tax ~~deed~~ shall be permit is valid in ~~any county of this~~ throughout the state for ~~such~~ the mobile home during the period for which it was issued.

SECTION 4. AMENDMENT. Section 57-55-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-02. Application for taxing - Form - Contents. No mobile home tax ~~deed~~ permit shall be issued unless the owner files an application with the director of tax equalization and pays the tax and any penalties in full to the county treasurer. Application shall be made on forms prescribed by the state tax commissioner, furnished by the county director of tax equalization, and shall contain the necessary information to carry out the provisions of this chapter.

SECTION 5. 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.

1. 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~~ by February fifteenth, the county treasurer shall allow a five percent discount. A ~~five percent discount shall also be allowed by the county treasurer if~~ if a mobile home is purchased or moved into this state after January tenth ~~of each year~~ and if the tax imposed ~~thereon~~ by this chapter is paid in full within ten days after ~~it~~ the mobile home is purchased or moved into this state, the county treasurer shall allow a five percent discount.

2. The tax imposed by this chapter may be payable paid in two equal installments if the amount of the tax due is forty dollars or more. The first installment shall become is due on January tenth and shall become becomes delinquent on the first day of March following first and, if not paid on or before said date, shall be is then 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 an additional penalty of two percent. The second installment shall become is due on or before June first and shall become is delinquent on the first day of July following first and, if the second installment is not paid on or before that date, it shall be is then 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 penalty of two percent, and on October first following, an additional penalty of two percent. If any tax remains due after the January first following of the next year, interest shall be charged is due at the monthly rate of one-half percent of the tax due for each month or fraction thereof of a month until the aforesaid tax and penalty has penalties have been paid in full.

SECTION 6. AMENDMENT. Section 57-55-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-04. Taxes - How determined - Disbursement. The director of tax equalization shall determine the tax for each mobile home shall be determined by the director of tax equalization by placing an evaluation on such the mobile home based upon its assessed value and by adjusting the valuation of the mobile home by the percentage provided in section 57-02-27 to determine its taxable valuation pursuant to under standards and guides as determined by the state tax commissioner and applying such that evaluation to the preceding year's total mill levies applying to property within the taxing district wherein in which the mobile home is located. If a mobile home is acquired or moved into this state during the calendar year, and a tax deed permit has not been previously issued on for such mobile home in this state for such year, the tax shall be is determined by computing the remaining number of months of the current year to the nearest full month and multiplying such that number by one-twelfth of the amount which would be due for the full year. The taxes collected pursuant to the provisions of under this chapter shall must be disbursed in the same year they are collected and in the same manner as real estate taxes for the preceding year are disbursed.

SECTION 7. AMENDMENT. Section 57-55-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-05. Taxes in lieu of other property taxes. The taxes provided for in this chapter shall be in lieu of all property taxes upon such mobile homes for the calendar year for which the tax ~~decal~~ permit is valid. However, such taxes shall in no way be construed as exempting any mobile home owner from the requirements of registering such mobile home with the registrar of motor vehicles or securing license plates entitling such mobile home to be hauled upon the state's highways pursuant to section 39-18-03.

SECTION 8. AMENDMENT. Section 57-55-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-06. Tax ~~decals~~ permits - Form --~~Display~~. The tax ~~decal~~ shall permit must be ~~decal type~~ and of a size and design specified by the state tax commissioner. The director of tax equalization shall order sufficient ~~decals~~ permits for ~~his~~ the county, and the costs of such ~~decals~~ permits must be paid by the county. The tax ~~decal~~ shall be attached to the mobile home in a conspicuous place where it is visible from the nearest street or common driveway-

SECTION 9. AMENDMENT. Section 57-55-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-07. ~~Failure to make application or to display decal apply for permit - Illegal use of decal permit - Penalty.~~ Any person who fails to make application pursuant to the provisions of this chapter, or who shall use or allow to be used a tax ~~decal~~ permit of any mobile home taxed pursuant to the provisions of this chapter for any purpose other than the purpose for which it was issued, ~~or who fails to attach such decal pursuant to the provisions of this chapter,~~ shall be is guilty of a class B misdemeanor.

SECTION 10. AMENDMENT. Subsection 1 of section 57-55-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A mobile home described in this subsection to the extent herein limited is exempt from taxation under this chapter; provided, that the mobile home shall have ~~displayed on it~~ a tax ~~decal~~ permit as provided in section 57-55-06:
 - a. If it is owned and used as living quarters of a military person on active military duty in this state who is a resident of another state.
 - b. If it is owned and occupied by a welfare recipient, provided the mobile home is not permanently attached to the land and classified as real property. For the purposes of this subdivision, "welfare recipient" means any person who is certified to the county director of tax equalization by the county social service board as receiving the major portion of income from any state or federal public assistance program.

- c. If it is owned and used as living quarters by a disabled veteran or unremarried surviving spouse who meets the requirements of subsection 20 of section 57-02-08.
- d. If it is owned and used as the living quarters for a blind person who meets the requirements of subsection 22 of section 57-02-08.
- e. If it is owned and used by a person who uses it as living quarters and who qualifies for the homestead credit provided in section 57-02-08.1, and the mobile home shall be regarded for the purposes of this exemption as the homestead of the person claiming the exemption.

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

- 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~~ permit or 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. While the mobile home is being transported, a permit must be displayed on the mobile home or the owner must provide the mover with a current tax release statement. A violation of this provision shall constitute an infraction, but the minimum penalty shall be one hundred dollars.

Approved April 11, 1985

CHAPTER 654

SENATE BILL NO. 2257
(Lips)GROSS RECEIPTS OF COAL GASIFICATION
FACILITIES

AN ACT to amend and reenact subsection 4 of section 57-60-01 and subsection 4 of section 57-60-02 of the North Dakota Century Code, relating to the definition of "gross receipts" for purposes of the privilege tax on coal conversion facilities, and to the rate of tax on coal conversion facilities.

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

SECTION 1. AMENDMENT. Subsection 4 of section 57-60-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Gross receipts" means all revenue valued in money, whether received in money or otherwise, derived by a coal conversion facility subject to the provisions of this chapter from the production of products of a coal conversion facility, but not including any revenue derived from transportation, transmission, distribution, or other items which occur after the process of production of the products of such facility is completed. For the purpose of computing the tax imposed by this chapter "gross receipts" does not include any financial assistance, whether in the form of price guarantee payments or otherwise, provided by the federal government or any agency of the federal government.

* SECTION 2. AMENDMENT. Subsection 4 of section 57-60-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. For coal gasification plants constructed prior to July 1, 1985, the tax shall be either the amount provided in subsection 1 or ~~ten~~ fifteen cents on each one thousand cubic feet [28,316.85 liters] of synthetic natural gas produced for the purpose of sale, whichever is greater.

Approved April 11, 1985

* NOTE: Section 57-60-02 was also amended by section 20 of Senate Bill No. 2250, chapter 604.

CHAPTER 655

HOUSE BILL NO. 1574
(Representatives Goetz, Martinson, Hoffner)
(Senators W. Meyer, Wright, Moore)

COAL CONVERSION TAX RATES

AN ACT to create and enact two new subsections to section 57-60-02 of the North Dakota Century Code, relating to the annual tax for the privilege of producing products and a temporary partial exemption and county optional temporary exemption from the tax for each coal conversion facility which commences construction after July 1, 1985.

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

SECTION 1. Two new subsections to section 57-60-02 of the North Dakota Century Code are hereby created and enacted to read as follows:

For coal gasification plants constructed after July 1, 1985, the tax shall be either the amount provided in subsection 1 or ten cents on each one thousand cubic feet [28,316.85 liters] of synthetic natural gas produced for the purpose of sale, whichever is greater.

- a. For all coal conversion facilities, other than electrical generating plants, which commence construction after July 1, 1985, the production from the facilities shall be exempt from sixty-five percent of the tax imposed by this section for a period of five years from the date of first production from the facility. The operator of each facility shall certify to the tax commissioner the date of first production of the facility.
- b. The board of county commissioners may, by resolution, grant to the operator of a coal conversion facility, other than an electrical generating plant, located within the county a partial or complete exemption from the remaining thirty-five percent of tax imposed by this section for a period not exceeding five years from the date of the first production from the

facility. Notwithstanding the provisions of section 57-60-14, any tax collected which is based upon the production of a facility subject to the exemption provided by this subsection shall be allocated entirely to the county for allocation as provided in section 57-60-15.

Approved April 16, 1985

CHAPTER 656

SENATE BILL NO. 2449
(Senators Maixner, Parker, Kusler)
(Representatives Watne, Whalen)

SEVERANCE TAX REDUCTION FOR COGENERATION

AN ACT to create and enact section 57-61-01.3 of the North Dakota Century Code, relating to a severance tax reduction on coal mined for certain users.

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

SECTION 1. Section 57-61-01.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-61-01.3. Severance tax reduction for coal mined for certain users. The rate of severance tax determined and imposed as provided in section 57-61-01 shall be reduced by fifty percent if the coal is to be burned in a cogeneration facility which is designed to use renewable resources as fuel to generate ten percent or more of its energy output measured in British thermal units. The coal mine owner or operator must certify, or require the person purchasing the coal to certify, that the coal will be used in the manner required by this section to qualify for the reduced tax rate.

Approved March 28, 1985

CHAPTER 657

HOUSE BILL NO. 1470
(Representatives A. Hausauer, A. Olson, Nowatzki)
(Senators Thane, Nelson, Dotzenrod)

COAL SEVERANCE TAX EXEMPTION FOR AGRICULTURAL PROCESSING

AN ACT to create and enact a new section to chapter 57-61 of the North Dakota Century Code, relating to an exemption from the state coal severance tax and sales and use taxes for coal used by agricultural processing or sugar beet refining plants.

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

SECTION 1. A new section to chapter 57-61 of the North Dakota Century Code is hereby created and enacted to read as follows:

Severance and sales and use tax exemption for coal used in certain plants. No state severance tax may be imposed on coal used in agricultural processing or sugar beet refining plants located within North Dakota or adjacent states. The coal mine owner or operator shall require the person purchasing the coal to certify that amount of coal purchased for agricultural processing or sugar beet refining purposes. Coal exempted from the severance tax by this section is not subject to sales and use taxes.

Approved March 14, 1985

CHAPTER 658

HOUSE BILL NO. 1649
(Representatives R. Anderson, Hughes, Opedahl)
(Senators Bakewell, D. Meyer)
(Approved by the Committee on Delayed Bills)

OIL AND GAS IMPACT LOANS FROM COAL IMPACT FUND

AN ACT to amend and reenact subsection 2 of section 57-62-02 and section 57-62-03 of the North Dakota Century Code, relating to loans to oil and gas development impacted counties, cities, and school districts through the coal development trust fund; and to provide an expiration date.

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

SECTION 1. AMENDMENT. Subsection 2 of section 57-62-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Fifteen percent shall be deposited in a permanent trust fund in the state treasury, to be known as the coal development trust fund, pursuant to section 21 of article X of the Constitution of North Dakota. Those funds held in trust and administered by the board of university and school lands on March 5, 1981, pursuant to section 12, chapter 563, 1975 Session Laws; section 12, chapter 560, 1977 Session Laws; or section 16, chapter 626, 1979 Session Laws shall also be deposited in the trust fund created pursuant to this subsection. The fund shall be held in trust and administered by the board of university and school lands for loans to coal and oil and gas development impacted counties, cities, and school districts as provided in section 57-62-03. The board of university and school lands shall have full authority to invest such funds as are not loaned out 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 the trust shall be used first to replace uncollectible loans made from the fund and the balance 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.

* SECTION 2. AMENDMENT. Section 57-62-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-62-03. Loans - Terms and conditions - Repayment. The board of university and school lands is authorized to make loans to coal and oil and gas development impacted counties, cities, and school districts from moneys deposited in the coal development trust fund established by subsection 2 of section 57-62-02. The amount which is available for loans to oil and gas development impacted counties, cities, and school districts may not exceed fifty percent of the unloaned balance of the coal development trust fund on January 1, 1985. 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 energy 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 executed as evidence of loans to mitigate coal development impact 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. Warrants executed as evidence of loans to mitigate oil and gas development impact are payable from any funds of the borrowing political subdivision and constitute a general obligation and indebtedness of the political subdivision. The terms of the a loan to mitigate coal development impact 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 terms of a loan to mitigate oil and gas development impact shall provide for repayment of the loan from any moneys available to the political subdivision. The amount withheld by the state treasurer as which constitutes payment of interest shall be deposited in the general fund and the amount withheld by the state treasurer as which constitutes 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 57-62-02. 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 coal development trust fund and that which constitutes interest in the general fund. If the future allocations of moneys under this chapter to the borrowing county, city, or school district should, for any reason, permanently cease, the loan shall be canceled except that if the

* NOTE: Section 57-62-03 was also amended by section 1 of House Bill No. 1087, chapter 659.

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. A loan made to mitigate oil and gas development impact shall not be canceled for any reason. 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 57-62-02 the principal and interest, as it becomes due, on those warrants of the county, city, or school district which are held by another party.

SECTION 3. EXPIRATION DATE. This Act is effective through June 30, 1987, and after that date is ineffective.

Approved March 27, 1985

CHAPTER 659

HOUSE BILL NO. 1087
(Legislative Council)
(Interim Tenneco Plant Committee)

COAL IMPACT LOANS BEFORE MINING

AN ACT to amend and reenact section 57-62-03 of the North Dakota Century Code, relating to coal development impact loans to impacted areas from the coal development trust fund.

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

* SECTION 1. AMENDMENT. Section 57-62-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-62-03. Loans - Terms and conditions - Repayment. The board of university and school lands is authorized to make loans to coal development impacted counties, cities, and school districts before or after the beginning of actual coal mining from moneys deposited in the coal development trust fund established by subsection 2 of section 57-62-02. Loans made prior to actual mining must be preceded by site permitting and by beginning actual construction of the mine or its mine mouth facility. 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 energy 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. Loans made in advance of actual coal mining must provide that repayment is to begin when the borrowing county, city, or school district receives allocations from the coal development fund. 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

* NOTE: Section 57-62-03 was also amended by section 2 of House Bill No. 1649, chapter 658.

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 57-62-02. 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 coal development 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 57-62-02 the principal and interest, as it becomes due, on those warrants of the county, city, or school district which are held by another party.

Approved March 22, 1985