

TAXATION

CHAPTER 377

H. B. No. 808
(Schmalenberger)

BILLBOARD ASSESSMENT

AN ACT

To assist in the assessment and collection of personal property taxes on billboards used for advertising purposes.

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

§ 1. **Name of Owner.**) No person, firm, corporation or association shall erect and rent or lease any billboard for advertising purposes upon any land or attached to any building, unless at the time of the erection of such billboard there shall be attached and firmly affixed thereto a plate or sign containing the name and address of the owner of such billboard, which plate or sign shall be kept and maintained thereon at all times.

§ 2. **Failure to Designate Owner.**) If the owner of such billboard fails to comply with the provisions of section 1 hereof within sixty days after the erection of such billboard such owner shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars.

§ 3.) On or before the 15th day of March of each year every person, firm, corporation or association subject to the provisions of this Act shall file with the county auditor of each county in which such person, firm, corporation or association has billboards containing advertisements, a report in writing under oath, containing a description of the property upon which each such billboard is located, such description to be sufficiently complete so that the lot, tract or parcel of land may be identified. Such report shall also list the full and true value in money of each such billboards. Whenever the county auditor shall discover that any of such billboards has been omitted in the assessment of any year, he shall assess such billboards in the manner provided for in chapter 57-14 of the North Dakota Revised Code of 1943.

Approved March 9, 1959.

CHAPTER 378

S. B. No. 249

(Fiedler)

(By request)

CONTRACTOR'S PERFORMANCE BONDS FOR PAYMENT
OF USE TAX

AN ACT

Relating to contractors' performance bonds and providing for payment of all use taxes due the state of North Dakota.

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

§ 1.) For the purposes of this Act the term "surety" shall mean a bond or undertaking executed by a surety company authorized to do business in the state of North Dakota, and "surety company" means any person, firm, or corporation executing such surety.

§ 2.) Whenever any contractor or subcontractor enters into any contract for the erection of buildings or the alteration, improvement or repair of real property in this state and the contractor or subcontractor furnishes surety for the faithful performance of such contract, there is hereby imposed the additional obligation upon the surety company to the state of North Dakota that said contractor or subcontractor shall promptly pay all use taxes which may accrue to the state of North Dakota under the provisions of chapter 57-40 of the North Dakota Revised Code of 1943, as amended. Such liability on the part of the surety company shall be limited to two per cent of the amount of the contract price.

§ 3.) The surety company within sixty days after executing such surety shall send written notice of the same to the state tax commissioner, which notice shall give the names and addresses of the parties contracting with respect to the real property and the place where the contract is to be performed. After the completion of the contract and the acceptance of the improvement by the owner of the real property improved, the surety company shall give written notice of such completion and acceptance to the state tax commissioner.

Six months after the completion of the contract and the acceptance of the improvement by the owner thereof, the additional obligation imposed upon said surety company shall cease unless written notice, within such period of time, of unpaid use taxes, is given to the surety company by the state tax commissioner.

§ 4.) This Act shall not be construed to modify or repeal in any way any of the provisions of sections 48-0105 and 48-0106 of the 1957 Supplement to the North Dakota Revised Code of 1943.

Approved March 17, 1959.

CHAPTER 379

H. B. No. 700
(Baldwin, Aamoth, Hilleboe)

SPECIAL ASSESSMENTS FOR WATER AND SEWER
IMPROVEMENTS

AN ACT

Authorizing municipalities in certain cases to levy special assessments for water and sewer improvements upon benefited properties which were not assessed at the time of construction thereof, prescribing the procedure for and the limitations upon the levy of such assessments, and declaring an emergency.

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

§ 1. Authority to Levy Water and Sewer Assessments on Property Not Originally Assessed.) Any municipality which has heretofore paid or provided or may hereafter pay or provide for the payment of part or all of the cost of an improvement to its water or sewer system, from sources other than special assessments upon benefited property, may subsequently levy special assessments therefor upon properties benefited thereby in the cases and in accordance with the procedure and subject to the conditions set forth in this Act.

§ 2. Assessments on Property Within the Corporate Limits.) No subsequent assessment shall be levied for any improvement on any property which was within the corporate limits of the municipality on the date of the execution of the first contract for any part of such improvement, unless a special improvement district was originally created for such improvement, and the property on which the subsequent assessment is to be levied was not originally assessed therefor but is subsequently included within another improvement district created to finance a water or sewer main which will be connected directly or indirectly with the original improvement. In such event, said assessments may be included in a separate column in the special assessment list prepared for such water or sewer main improvement district, and levied upon the prop-

erties included therein at the same time and upon the same notices and hearings as provided by law for the water or sewer main assessments; provided that a resolution determining the necessity of the water or sewer main shall have been adopted in the manner prescribed by law, referring to the designation of the district created for the original improvement and stating that a portion of the cost thereof is proposed to be assessed upon property within the water or sewer improvement district.

§ 3. Assessments on Annexed Property.) Any property which was outside the corporate limits of the municipality at the time of contracting for a water or sewer improvement, which is benefited by such improvement and is subsequently annexed to the municipality, may thereafter be assessed therefor subject to the same conditions and by the same procedure as provided in section 2 of this Act. Any such property which is benefited may also be assessed for a water or sewer main which, at the time of contracting therefor, was outside the corporate limits, or for any water or sewer improvement, within or outside the corporate limits, which is determined by the governing body and the special assessment commission to benefit only property which was outside the corporate limits at the time of contracting therefor, whether or not an improvement district was previously created therefor, and whether or not the property assessed abuts on such main or other improvement or on a main to be connected thereto. For this purpose the governing body may create one or more improvement districts comprising such annexed territory or any part thereof, and may thereafter provide for the levy of special assessments upon such property in the manner provided in Title 40 of the North Dakota Revised Code of 1943, as amended, but may dispense with the requirements of said Code as to the adoption of a resolution of necessity and the advertisement and award of a contract for the improvement, and the assessment proceedings shall be valid notwithstanding any failure of the previous proceedings to comply with the provisions of law regarding improvements to be financed by special assessments.

§ 4. Equalization of Original Assessments.) In any assessment proceedings under this Act the governing body of the municipality shall have power to direct the cancellation of uncollected installments of special assessments previously levied for the same improvement, and the refund of installments prepaid, to the extent determined by it to be necessary to make the original assessments and the subsequent assessments bear as nearly as possible the same relation to the total benefits derived from the improvement by the respective properties assessed.

§ 5. **Use of Collections of Subsequent Assessments.)** All collections of special assessments levied pursuant to this Act shall be credited as received to the special fund maintained by the municipality for the payment of any outstanding special improvement warrants, refunding improvement bonds, general obligation bonds or revenue bonds which were issued to finance the improvement for which the assessments were levied, or, if no such obligations are outstanding, to such fund as the governing body may direct.

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

Approved March 11, 1959.

CHAPTER 380

H. B. No. 578

(Einarson and Halcrow)

SPECIAL ASSESSMENTS ON STATE PROPERTY

AN ACT

To provide for the levy of special assessments on certain state property.

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

§ 1. **State Property Subject to Special Assessments.)** Real estate within municipalities of this state owned by the state of North Dakota other than for highway right-of-way purposes, may be subjected to special assessments for special improvements when benefited by such improvement and the state agency or department having control thereof is hereby authorized to expend public funds in payment of such special assessments.

Approved March 14, 1959.

CHAPTER 381

H. B. No. 740

(Halcrow, Johnson, Goebel, Berntson,
(Anderson of Richland)

SPECIAL FUELS TAX LEVY

AN ACT

Levying a special excise tax on the sale of special fuels sold for agricultural, heating or railroad purposes; providing that special fuel dealers be licensed, bonded, collect the tax, make returns and remit the tax to the state auditor; providing that the state auditor administer the tax; providing penalties; and providing for allocation and distribution of the tax among the counties for farm to market roads.

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

§ 1. Definitions.) As used in this Act, unless the context otherwise requires:

1. "Person" includes every natural person, fiduciary, association, or corporation. Whenever used in any case prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof;
2. "Farm to market roads" mean any road within the county which is not on the North Dakota state highway system, and which qualifies for federal aid matching funds;
3. "Special fuel", for the purposes of this Act, means and includes all combustible gases and liquids suitable for * (heating purposes or for the generation of power for), except that it does not include motor fuel as defined in section 57-4101 of the North Dakota Revised Code of 1943, as amended;
4. "Sale", for the purposes of this Act, means the receipt, delivery, or transfer of title to special fuels by a special fuel ** ("dealer to a special fuel") user to be used for agricultural, heating or railroad purposes;

***Note:** The language "heating purposes or for the generation of power for" through clerical error remains in the enrolled bill as signed by the governor. Such language should have been deleted (see House Journal, p. 618), and the words "the generation of power for propulsion of motor vehicles" should be inserted in lieu thereof (see House Journal, p. 618).

****Note:** It appears that the words "dealer to a special fuel" through clerical error have been deleted from the enrolled bill as signed by the governor, since neither the House nor Senate Journals show such language was deleted by amendment. Therefore such language should be inserted where the double asterisk appears.

5. "Special fuel dealer", for the purposes of this Act, means any person in the business of handling special fuel who delivers or sells any part thereof to a special fuel user;
6. "Special fuel user", for the purposes of this Act, means any person receiving or purchasing special fuel to be used for agricultural, heating or railroad purposes.

§ 2. Tax Levied.) There is hereby levied and imposed a special excise tax on all sales of special fuel which are exempted from the tax imposed under chapter 57-52 of the 1957 Supplement to the North Dakota Revised Code of 1943 as amended to a special fuel user at the rate of two percent of the sale price of such special fuels, provided, however, that discounts for any purposes allowed and taken on such sales shall *(not) be included as a part of the sale price.

§ 3. Collection and Payment of Tax.) The tax imposed by section 2 of this Act shall attach at the time of sale of any special fuel by any special fuel dealer to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state auditor as hereinafter provided.

§ 4. License, Fee and Bond.) It shall be unlawful for any person to act as a special fuel dealer in this state unless he shall or has complied with the provisions of the 1957 Supplement to the North Dakota Revised Code of 1943 set forth in section 57-5205, 57-5206 and 57-5207 and subject to the provisions of section 57-5208 of the 1957 Supplement to the North Dakota Revised Code of 1943.

§ 5. Records and Returns; Penalties and Interest; Powers of State Auditor.)

1. A special fuel dealer shall keep such records and shall make such monthly returns and payments of the tax to the state auditor, in the manner, at the time, and pursuant to similar procedures as are provided in sections 57-5209 and 57-5210 of the 1957 Supplement to the North Dakota Revised Code of 1943 insofar as those sections are not inconsistent with the provisions of this Act.
2. For failure or refusal to keep such records, file monthly returns and make payments of the tax to the state auditor as herein provided, a special fuel dealer shall be subject to the same penalties and interest as are provided for similar acts in sections 57-5212, 57-5213

***Note:** It appears that the word "not" has been deleted through clerical error from the enrolled bill as signed by the governor, since neither the House nor Senate Journals show the word "not" was deleted by amendment. Therefore the word "not" should be inserted where the asterisk appears.

and 57-5214 of the 1957 Supplement to the North Dakota Revised Code of 1943.

3. The state auditor, in his discretion, and for good cause shown, may waive the penalty for failure or refusal to file a return within the time required by this Act or grant a reasonable extension of time for filing such a return. The state auditor shall have power to revoke or cancel the license of any special fuel dealer under the conditions and after notice as provided in section 57-5208 of the 1957 Supplement to the North Dakota Revised Code of 1943; assess deficiencies in the tax; determine the tax when returns are not filed as required by this Act; permit credit for or authorize refund or erroneously or illegally collected taxes, penalties or interest imposed by this Act from undistributed funds received under this Act, all in the manner and to the same extent as provided in sections 57-5212, 57-5213, 57-5214 and 57-5215 of the 1957 Supplement to the North Dakota Revised Code of 1943, insofar as the provisions of those sections are consistent with this Act.
4. The state auditor shall enforce the provisions of this Act and may prescribe, adopt and enforce reasonable rules and regulations relating to the administration and enforcement of this Act for both the special fuel dealer and the special fuel user, and he may examine the records of special fuel dealers and special fuel users and make such investigations as he may deem necessary in the administration and enforcement of this Act.

§ 6. Presumption.) For the purpose of enforcing the provisions of this Act it shall be prima facie presumed that all special fuel received by a special fuel dealer and placed into storage or dispensing equipment normally designed to transfer and meter such fuel into fuel tanks for agricultural, heating or railroad purposes was in fact resold and delivered to special fuel users.

§ 7. Violations.) It shall be unlawful for any person to:

1. Refuse or knowingly or intentionally fail to make and file any statement required by this Act in the manner or within the time required;
2. Knowingly, or with intent to evade or aid in the evasion of the tax imposed herein, to make any false statement or conceal any material fact in any record, return, or affidavit provided for in this Act;
3. Conduct any activities requiring a license under this Act without a license or after such license has been surrendered, canceled, or revoked;
4. Assign or attempt to assign a license to act as a special fuel dealer;

5. Receive in this state into fuel tanks as a special fuel user for use for agriculture, heating or railroad purposes special fuel obtained from a person not holding a valid license as a special fuel dealer;
6. Fail to keep and maintain such books, records, or metering devices as may be required by this Act.

§ 8. Penalties.) Any person violating any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment of not more than thirty days, or by both such fine and imprisonment. Upon such conviction the state auditor may revoke for a period of not less than one year the special fuel dealer's license of any special fuel dealer convicted of violating this Act. The fine and imprisonment and revocation of license, provided for in this section, shall be in addition to any other penalty imposed by other provisions of this Act.

§ 9. Disposition of Funds.) All taxes, license fees, penalties and interest collected under this Act, except for the fines levied upon conviction for violation hereof, and except for license fees collected pursuant to chapter 57-5204 of the 1957 Supplement to the North Dakota Revised Code of 1943, shall be transferred to the state treasurer who shall allocate and distribute such funds among the counties of this state for farm to market roads in accordance with a formula that gives equal weight to the land area in each county in the state, to population in each county in the state according to the last official census, and to miles of rural roads in each county in the state exclusive of state highways. The state treasurer shall allocate and distribute such funds to the several counties on a calendar quarterly basis, and such allocation and distribution shall be made on or before the end of the first month following the calendar quarter for which such allocation and distribution is made.

Approved March 11, 1959.

CHAPTER 382

S. B. No. 91

(Meidinger, Wenstrom, Morgan, Wadeson, Klefstad)

CLOTHING, HOUSEHOLD GOODS AND MUSICAL
INSTRUMENTS; EXEMPTION

AN ACT

To amend and reenact section 57-0208 of the North Dakota Revised Code of 1943, as amended, by creating and enacting an additional subsection relating to the exemption of clothing, household goods, and musical instruments of certain persons from personal property taxation.

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

§ 1. Amendment.) Section 57-0208 of the North Dakota Revised Code of 1943 is hereby amended by creating and enacting an additional subsection to read as follows:

21. All clothing, musical instruments, and household goods owned and personally used by blind persons, permanently and totally disabled persons. For purposes of this subsection blind persons shall mean all persons who have no vision or whose vision with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential, and permanently and totally disabled persons shall mean all persons who are permanently and totally disabled and who lack sufficient income or other resources to provide himself a reasonable subsistence compatible with decency and health, as evidenced by physician's certificate filed with the assessor.

Approved March 10, 1959.

CHAPTER 383

H. B. No. 737

(Magnuson, Haugland, Johnston, Lindberg, Hilleboe)

PERSONAL PROPERTY EXEMPTION FOR THE BLIND

AN ACT

To amend and reenact section 57-0208 of the North Dakota Revised Code of 1943 by creating and enacting a subsection relating to the exemption of certain personal property from ad valorem taxes for blind persons.

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

§ 1. Amendment.) Section 57-0208 of the North Dakota Revised Code of 1943 is hereby amended by creating and enacting the following subsection to read as follows:

All or any part of fixtures, building and improvements upon any nonfarm land up to an assessed valuation of six thousand dollars, owned and occupied as a home by a blind person. For purposes of this section a blind person shall be defined as one who is totally blind, has visual acuity of not more than 20/200 in the better eye with correction, or whose vision is limited in field so that the widest diameter subtends an angle no greater than twenty degrees.

Approved March 12, 1959.

CHAPTER 384

H. B. No. 701
(Baldwin and Hilleboe)

BASIS FOR COMPUTATION OF TAXES

AN ACT

To amend and reenact section 57-0228 of the North Dakota Revised Code of 1943, relating to computation of property taxes, and declaring an emergency.

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

§ 1. Amendment.) Section 57-0228 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-0228. Basis for Computation of Tax.) The value of all property subject to a general property tax, not exempted by law nor subject to any gross sales or other lieu tax, to be used in the computation of the tax levied for the payment of any bonded or improvement warrant indebtedness shall be the full and true value thereof, but the net value of such property to be used in the computation of all other taxes levied thereon shall be fifty percent of the true and full value thereof. Assessors and boards of review shall assess and return all taxable property at its full and true value, and the county auditor, after equalization by the state board of equalization, shall make the computations necessary to ascertain said fifty percent value.

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

Approved March 9, 1959.

CHAPTER 385

H. B. No. 662
(Schuler, Dahl, Brown)

SALARY AND EXPENSE OF COUNTY VETERANS'
SERVICE OFFICER

AN ACT

To amend and reenact section 57-15064 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the levy authorized for the payment of the salary and traveling expenses of the county veterans' service officer.

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

§ 1. **Amendment.**) Section 57-15064 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-15064. Levy Authorized for County Veterans' Service Officers' Salary and Traveling Expenses.) The county commissioners of each county are hereby authorized to levy annually a tax of not to exceed one-half mill on the dollar of the net assessed taxable valuation of the county, to provide a fund, for the payment of the salary and traveling expenses of the county veterans' service officer authorized to be appointed by section 37-1418 of the 1957 Supplement to the North Dakota Revised Code of 1943. Such levy shall in no manner be limited by the provisions of section 57-1506 of the 1957 Supplement to the North Dakota Revised Code of 1943.

Approved March 11, 1959.

CHAPTER 386

H. B. No. 549
(Link, Esterby, Streibel)
(From LRC Study)

EXCESS LEVIES IN SCHOOL DISTRICTS

AN ACT

To amend and reenact section 57-1605 of the North Dakota Revised Code of 1943, relating to the vote necessary to approve excess levies in school districts.

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

§ 1. Amendment.) Section 57-1605 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1605. Vote Necessary for Approval.) If the question submitted is for an increase of not to exceed twenty-five percent in the levy over the legal limit, a favorable vote upon such question by a majority of the electors voting shall be sufficient to authorize such excess levy. If the question submitted is for an increase of more than twenty-five percent and not to exceed seventy-five percent in the levy over the legal limit, a favorable vote upon such question by sixty percent of the electors voting on such question shall be sufficient to authorize such excess levy.

Approved March 10, 1959.

CHAPTER 387

S. B. No. 119
(Morgan, O'Brien, Fiedler, Wadeson)

PENALTY FOR DELINQUENT PERSONAL PROPERTY TAXES

AN ACT

To amend and reenact section 57-2001 of the North Dakota Revised Code of 1943, relating to the penalty for delinquent personal property taxes.

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

§ 1. Amendment.) Section 57-2001 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-2001. Real and Personal Property Taxes; When Due and Delinquent; With Penalties.) All real and personal property taxes, hail insurance taxes, and yearly installments of special assessment taxes shall become due on the first day of January following the year for which such taxes were levied. The first installment of real estate taxes, all personal property taxes, hail insurance taxes, and yearly installments of special taxes shall become delinquent on the first day of March following and, if not paid on or before said date, shall be subject to a penalty of one percent, and on May first following an additional penalty of one percent, and on July first following an additional penalty of one percent, and an additional penalty of two 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 six percent per annum upon the principal of the unpaid taxes on personal property shall be charged until such taxes and penalties are paid, with such 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 October fifteenth, and, if not paid on or before that date shall become subject to a penalty of two percent.

Approved March 17, 1959.

CHAPTER 388

H. B. No. 702
(Sorlie and Burk)

TAX REDEMPTION CERTIFICATES

AN ACT

To amend and reenact section 57-2024 of the North Dakota Revised Code of 1943, relating to the method of payment of due tax redemption certificates, and the disposition of payments that are overdue and have not been claimed.

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

§ 1. Amendment.) Section 57-2024 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-2024. Warrants To Be Drawn for Money Due Owners.) Upon application of the party entitled thereto, and the approval of the board of county commissioners that such claim is owing and that the person presenting the claim is the rightful holder

thereof, the county auditor shall give to such party his warrant upon the county treasurer for payment from the general fund for any money paid in for redemption of taxes which may be due to the purchaser at the sale, or his assignee. The certificate of sale shall be surrendered and canceled at the time of such payment, or if the redemption is for a part or undivided interest in the piece or parcel of land redeemed, the amount of such redemption and the proportion redeemed shall be endorsed on such certificate, which shall be a cancellation of such part of the certificate. If any holder of a tax sale certificate fails to present such tax sale certificate to the county auditor for payment within a period of ten years after notice, the board of county commissioners shall transfer the amount due on such tax sale certificate into the general fund of the county.

Approved March 12, 1959.

CHAPTER 389

S. B. No. 103

(Fiedler, O'Brien, Livingston, Larson, Morgan, Longmire, Schrock)

PUBLICATION AND RECORD OF DELINQUENT PERSONAL PROPERTY TAXES

AN ACT

To amend and reenact sections 57-2201 and 57-2202 of the North Dakota Revised Code of 1943, relating to collection of personal property taxes, and the publication of delinquent personal property taxes and maintaining a record of all such delinquent taxes.

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

§ 1. Amendment.) Section 57-2201 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-2201. Treasurer to Give Notice.) The county treasurer, during the month of January preceding the time when personal property taxes shall become delinquent, shall give to each person, firm, or corporation from whom such a tax is due, a written notice stating the amount of the tax due, the date when the same shall become delinquent, a schedule of the penalties which will accrue after delinquency, that unless such taxes are paid on or before the fifteenth day of October of that year the taxes will be placed in the hands of the sheriff for collection and that in January of the next year the list of unpaid delinquent personal property taxes will be published in the official newspaper in the county.

§ 2. **Amendment.**) Section 57-2202 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-2202. Treasurer to Make List of Delinquent Taxes and Publish Notice of Delivery to Sheriff.) On or before the first day of September in each year, the county treasurer shall make out a list of the unpaid delinquent personal property taxes, in the order in which they appear on the tax list, and, on or before the fifteenth day of September thereafter, shall publish notice in the official newspaper of the county that on the fifteenth day of October of that year all unpaid delinquent personal property taxes will be placed in the hands of the sheriff for collection.

§ 3. **County Auditor to Publish List and Maintain Record of Delinquent Personal Property Taxes.)** The county auditor, upon receiving a list of the delinquent personal property taxes as required by law, shall cause the same to be published in the official newspaper of the county and entered in individual accounts by taxpayers in a record to be kept in his office. Such record shall show the names of delinquent taxpayers alphabetically arranged, the amount of the tax of each, for what year or years, and all other information as shown on the original tax list. Subsequent payments shall be posted from duplicate copies of tax receipts transmitted by the treasurer and sheriff.

Approved March 3, 1959.

CHAPTER 390

H. B. No. 746

(Hilleboe, Aamoth, Stockman, Fitch, Idso)

ABATEMENT OR REFUND OF TAX ASSESSMENTS

AN ACT

To create and enact subsection 7 of section 57-2304 of the North Dakota Revised Code of 1943, relating to the abatement of assessments and refund of taxes.

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

§ 1. **Amendment.**) Section 57-2304 of the North Dakota Revised Code of 1943 is hereby amended by adding subsection 7 thereto to read as follows:

7. When any building, structure, or other improvement or tangible personal property has been destroyed or in-

jured by fire, flood, or tornado; provided that proper adjustment has not been made by the assessor pursuant to subsection 4 of section 57-0211. No abatement or refund shall be made under this subsection on account of damages covered by insurance or damages amounting to less than one hundred dollars, and the abatement or refund shall be granted only for that part of the year remaining after the property was damaged or destroyed.

Approved March 9, 1959.

CHAPTER 391

H. B. No. 826
(Burk)

COLLECTION OF TAXES ON LEASEHOLD INTERESTS

AN ACT

To amend chapter 57-24 of the North Dakota Revised Code of 1943 by adding thereto section 57-2431 relating to collection of real estate taxes imposed on leasehold interests in exempt real property.

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

§ 1.) Chapter 57-24 of the North Dakota Revised Code of 1943 is hereby amended by adding thereto section 57-2431 to read as follows:

57-2431. Collection of Real Estate Taxes on Leasehold Interests.) If any holder of a leasehold 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 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 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.

Approved March 5, 1959.

CHAPTER 392

H. B. No. 735

(Aamoth, Stockman, Bye, Halcrow,
(Thompson of Richland, Lowe)

INCOME TAX CREDITS

AN ACT

To amend and reenact subsections 2 and 6 of section 57-3804 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to allocation of income of residents and providing a credit for income taxes paid to another state or foreign country; providing an effective date; providing for refunds; and declaring an emergency.

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

§ 1. **Amendment.)** Subsection 2 of section 57-3804 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2. Income received from personal or professional services performed by residents of this state, regardless of where such services are performed, and income received by residents of this state from intangible personal property shall be assigned to this state. If a tax is paid to another state or a foreign country on any income assigned to this state under this subsection, a credit for any tax so paid may be deducted from the tax assessed under this chapter if written proof of such payment is furnished to the tax commissioner; provided, that this deduction for such tax shall not exceed the difference between (a) the amount of tax that would be due under this chapter if all of the taxpayer's income had been derived from sources within North Dakota and (b) the amount of tax that would be due under this chapter if the income from personal or professional services performed outside of North Dakota were excluded from the computation of the North Dakota income tax;

§ 2. **Amendment.)** Subsection 6 of section 57-3804 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6. a. Income and gains received by a resident of this state from tangible property not employed in the business and from tangible property employed in the business of the taxpayer, if such business consists principally of the holding of such property and the collection of income and gains therefrom, shall be assigned to this state without regard to the situs of such property.

- 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.

If a tax is paid to another state or a foreign country on any income assigned to this state under this subsection, a credit for any tax so paid may be deducted from the tax assessed under this chapter if written proof of such payment is furnished to the tax commissioner; provided, that this deduction for such tax shall not exceed the difference between (a) the amount of tax that would be due under this chapter if all of the taxpayer's income had been derived from sources in North Dakota and (b) the amount of tax that would be due under this chapter if the gains, profits or income from property, trade or business outside of North Dakota together with any expenses, losses or taxes related thereto were excluded from the computation of the North Dakota income tax.

§ 3. Effective Date.) The provisions of sections 1 and 2 of this Act shall apply to all income years beginning after December 31, 1957.

§ 4. Refunds Authorized.) Refunds of income taxes paid to this state pursuant to subsections 2 and 6 of section 57-3804 of the 1957 Supplement to the North Dakota Revised Code of 1943 on income derived from sources outside of North Dakota are hereby authorized to the extent that such taxes paid by any taxpayer exceed the amount that would have been due had this Act been in effect; provided that any application for refund under this section be filed with the tax commissioner on or before December 31, 1959.

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

Approved March 19, 1959.

CHAPTER 393

S. B. No. 186

(Baeverstad, Foss, Holand, Brooks, Wartner, Freed,
(Longmire, Trenbeath, Luick, Miller,))
(Erickson, Becker)

INCOME OF INDIVIDUALS AND FIDUCIARIES

AN ACT

To amend and reenact sections 57-3807, 57-3821 and 57-3827 of the North Dakota Revised Code of 1943, and sections 57-3801, 57-3827 and 57-3831 of the 1957 Supplement to the North Dakota Revised Code of 1943, all relating to taxation of incomes of individuals and fiduciaries; to provide deductions from net income in computing taxable income of individuals and fiduciaries, and to simplify preparation of their income tax returns for income years commencing after December 31, 1958, and to repeal subsection 3 of section 57-3817 and subsection 9 of section 57-3822 of the North Dakota Revised Code of 1943, and subsection 5 of section 57-3817 and subsection 13 of section 57-3822 of the 1957 Supplement to the North Dakota Revised Code of 1943.

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

§ 1. Amendment.) Section 57-3801 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended by creating and enacting subsection 20 to read as follows:

20. "Taxable income" or "income taxable" shall mean the net income as defined in this chapter less allowable deductions and exemptions in the case of individuals; with respect to fiduciaries, estates and trusts the quoted phrases shall mean the taxable income as computed for federal income tax purposes under the United States Internal Revenue Code of 1954 as amended, plus the federal personal exemption deduction, but with adjustments, deductions and exemptions under this Act and chapter.

§ 2. Amendment.) Section 57-3801 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended by creating and enacting subsection 21 to read as follows:

21. The term "Internal Revenue Code of 1954 as amended", means Internal Revenue Code of 1954 as amended to and including December 31, 1958.

§ 3. Amendment.) Section 57-3807 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3807. Tax Imposed on Resident Fiduciaries: A Charge Against Estate or Trust.) The tax imposed by this chapter

shall apply to and become a charge against estates and trusts with respect to their taxable income as defined in this Act, and the rates shall be the same as those applicable to individuals. Adjustments, deductions and exemptions shall be according to the provisions of this Act and chapter. The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts, whether such income be taxable to the estate or trust or to the beneficiaries thereof. Fiduciaries required to make returns shall be subject to all of the provisions of this Act which apply to individuals.

§ 4. Amendment.) Section 57-3827 of the North Dakota Revised Code of 1943, as amended, is hereby amended and reenacted to read as follows:

57-3827. Exemption for Fiduciaries.) For the purpose of the tax on fiduciaries, there shall be deducted from the net income a personal exemption of six hundred dollars; provided that, as to net income received before death during the income year by any deceased individual who at the time of death was a resident and had made no return for the year of death, the allowable exemptions shall be the same as if decedent were living, and further provided that, as to net income for a resident insolvent or incompetent individual, whether or not accumulated, the allowable exemptions shall be the same as those to which the beneficiary would be entitled if his affairs were not in the complete charge of a fiduciary.

§ 5. Amendment.) Section 57-3821 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3821. Net Income Defined; Computation.) In the case of corporations the phrase "net income" means the gross income of corporations as defined in this chapter, less the allowable deductions; in the case of individuals, the phrase "net income" means the adjusted gross income as computed for federal income tax purposes under the United States Internal Revenue Code of 1954 as amended, with adjustments; in the case of estates or trusts the phrase "net income" means the taxable income as computed for federal income tax purposes, plus the federal personal exemption deduction, and with adjustments. Adjustments for individuals and estates or trusts shall be as follows:

1. Subtract interest and dividends from federal securities.
2. Add interest and dividends from foreign securities and from securities of state and other political subdivisions exempt from federal income tax, provided that interest upon obligations of the state of North Dakota or any political subdivision thereof shall not be added.

3. Where the adjusted gross income includes capital gains or losses, or gains or losses from property other than capital assets, and such gains or losses have been determined by using a basis established prior to January 1, 1919, an adjustment may be made under rules and regulations prescribed by the state tax commissioner to reflect the difference resulting from the use of a basis of cost or January 1, 1919, fair market value, less depreciation allowed or allowable, whichever is higher. Provided, however, that the basis shall be fair market value as of January 1, 1959, less depreciation allowed or allowable in case of property acquired prior to that date if use of a pre-1919 basis is declared to be invalid.
4. Where an individual is permitted to file as a corporation under the provisions of the Internal Revenue Code of 1954 as amended, such fictional status shall not be recognized and such individual's taxable income shall be computed as required under the provisions of the Internal Revenue Code of 1954 as amended, relating to individuals not filing as corporations, with the adjustments, deductions and exemptions allowed by this chapter.
5. Where the federal adjusted gross income includes gains from property dealings in an earlier year, on which gains a North Dakota income tax return was made for such earlier year, adjustments shall be made under rules and regulations of the tax commissioner where necessary to prevent multiple state taxation with respect to the taxable event.
6. Where the federal adjusted gross income has not been reduced by depreciation allowances available on state returns under prior law but exhausted on federal returns due to differences in depreciation plans or schedules, adjustments shall be made under rules and regulations of the tax commissioner to prevent inequitable state taxation.
7. Where the federal adjusted gross income has not been reduced by losses available on state returns under prior law previously exhausted on federal returns due to differences in carry-back and carry-over provisions, adjustments shall be made under rules and regulations of the tax commissioner to prevent inequitable state taxation.

The commissioner is hereby authorized to prescribe rules and regulations to implement this section to avoid injustice to taxpayers, to prevent duplication of deductions and to eliminate taxation of income not fairly and properly taxable under this Act and chapter.

§ 6. Repeal.) Subsection 9 of section 57-3822 and subsection 3 of section 57-3817 of the North Dakota Revised Code of 1943 and subsection 5 of section 57-3817 and subsection 13 of section 57-3822 of the 1957 Supplement to the North Dakota Revised Code of 1943 are hereby repealed.

§ 7. Deductions.) In computing taxable income of individuals, there shall be deducted from net income the larger of the amounts defined as follows:

1. An optional standard deduction of five percentum of the net income after deduction of federal income taxes, but not social security and self employment taxes, not to exceed five hundred dollars, or
2. The total of contributions, interest, taxes, medical expense, child care expense, losses and miscellaneous expenses deductible for federal income tax purposes under the United States Internal Revenue Code of 1954 as amended, with adjustments as follows:
 - a. Subtract from said total the deduction for North Dakota income taxes.
 - b. Add to said total the amount of federal income taxes, but not social security and self employment taxes paid or accrued, as the case may be, during the applicable tax year, adjusted by any federal tax refunds. Provided, however, that where married persons who have filed a joint federal income tax return file separately, such total of deductions under this subsection shall be divided between them according to law; and provided further that where a taxpayer has used an optional standard deduction on his federal return, he shall use the optional standard deduction provided in this section.
 - c. Add to said total any dividends or income received from stock or interest in any corporation and included in the adjusted gross income as computed for federal income tax purposes where the income of such corporation has been assessed and tax paid by the corporation under this chapter and such dividends or income were received by the taxpayer as income during the income year if such corporation has reported the name and address of each person owning stock and the amount of dividends or income paid each such person during the year; when only part of the income of any corporation shall have been assessed and corporation income tax paid thereon under this chapter, only a corresponding part of the dividends or income received therefrom and included in federal adjusted gross income shall be deducted.

3. Where married persons file separately, both must use the optional standard deduction if either elects to use it.
4. A taxpayer affected by income allocation provisions of this chapter applicable to persons other than corporations shall, if the optional standard deduction is not used, be permitted to deduct only such portion of the total referred to in subsection 2 of this section as is fairly and equitably allocable to North Dakota under rules and regulations prescribed by the state tax commissioner.

§ 8. Amendment.) Section 57-3831 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended by creating and enacting subsection 7 to read as follows:

7. The return shall be accompanied by a true copy of the federal income tax return of the taxpayer or by equivalent information on forms furnished and under regulations promulgated by the state tax commissioner.

§ 9. Application.) This Act shall apply to income years commencing after December 31, 1958.

Approved March 19, 1959.

CHAPTER 394

H. B. No. 801
(Rolfsrud and Beede)

GAIN OR LOSS ON EXCHANGES OF PROPERTY

AN ACT

Relating to income taxation to create and enact section 57-38155 of the North Dakota Revised Code of 1943 to provide for retroactive and prospective nonrecognition of gain or loss on certain exchanges of property of a like kind, on certain exchanges by a corporation of its stock for property, on certain exchanges of property for the stock of a corporation, and on exchanges of the same kind of stock in the same corporation; and to create and enact subsection 7 of section 57-3818 of the North Dakota Revised Code of 1943 to provide that gross income shall not include certain stock dividends or stock rights already declared or to be declared.

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

§ 1.) Section 57-38155 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

57-38155. Gain or Loss Not Recognized on Certain Exchanges.)

1. No gain or loss shall be recognized upon the exchange of property held for productive use in a trade or business, or for investment, solely for property of a like kind to be held either for productive use in a business or for investment, except that this provision shall not apply to stock in trade or other property held primarily for sale, nor to stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest. The term "like kind" as used in this subsection shall have the same meaning as is given to it under section 1031 of the Federal Internal Revenue Code of 1954, as amended, and the basis of the property acquired shall be determined in accordance with the provisions of that section. A gain from an exchange of property for property of a like kind and other property or money shall be recognized to the same extent that it is recognized under that section, but no loss from such an exchange shall be recognized. This subsection shall be otherwise construed and administered in accordance with the provisions of that section.
2. No gain or loss shall be recognized to a corporation on the receipt of money or other property in exchange for stock, including treasury stock of such corporation. The basis of the property acquired by the corporation shall be determined in accordance with the provisions of section 1032 of the Federal Internal Revenue Code of 1954, as amended, and this subsection shall be otherwise construed and administered in accordance with the provisions of that section.
3. No gain or loss shall be recognized if property of any kind is transferred to a corporation by one or more persons solely in exchange for stock or securities of the same corporation and if immediately after the exchange that person or persons then own stock representing at least 80% of the total combined voting power of all classes of stock of the corporation carrying the right to vote and at least 80% of the total number of shares of all other classes of stock of the corporation issued at the time of the exchange. The term "securities" as used in this subsection shall have the same meaning as is given to it under section 351 of the Federal Internal Revenue Code of 1954, as amended, and the basis of the property acquired by such person or persons shall be determined in accordance with the provisions of that section. A gain from a transfer of property to a corporation in exchange for stock of the corporation and other property or money shall be recognized to the same ex-

tent that it is recognized under that section, but no loss on such an exchange shall be recognized. This subsection shall be otherwise construed and administered in accordance with the provisions of that section.

4. No gain or loss shall be recognized upon the exchange of common stock solely for common stock of the same corporation or of preferred stock solely for preferred stock of the same corporation. A gain from an exchange of common stock for common stock in the same corporation and other property or money or from an exchange of preferred stock for preferred stock in the same corporation and other property or money shall be recognized to the same extent that it is recognized under section 1036 of the Federal Internal Revenue Code of 1954, as amended, but no loss on such an exchange shall be recognized. The basis of the property acquired in an exchange under this subsection shall be determined in accordance with the provisions of that section, and this subsection shall be otherwise construed and administered in accordance with that section.
5. This section shall apply to all such exchanges that have been heretofore or that may hereafter be made, except that in any case where such an exchange has been reported or treated for the purposes of this chapter in a manner different from that provided in this section the basis of the property acquired shall be adjusted pursuant to such reasonable rules or regulations as the tax commissioner may prescribe to prevent an unfair burden upon, or benefit to, the taxpayer.
6. For the purposes of this section the words "Federal Internal Revenue Code of 1954, as amended" shall mean the Federal Internal Revenue Code of 1954, as amended to December 31, 1958.

*§ 2.) Subsection 7 of section 57-3818 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

7. (a) Any distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock; except distributions in lieu of money (1) to the extent that the distribution is made in discharge of preference dividends for the income year of the corporation in which the distribution is made or for the preceding year or (2) a distribution in which any of the shareholders has the option to receive cash or other property. The basis of the new stock or stock rights excluded from gross income pursuant to this subsection and of the old stock with respect to which

*Note: Another subsection 7 of section 57-3818 was also created by chapter 395.

it was distributed shall, in the shareholder's hands, be determined by allocating between the old stock and the new stock or stock rights the adjusted basis of the old stock, except that as to stock rights excluded under this subsection the basis shall be zero if the fair market value of the stock rights is less than 15 percent of the fair market value of the old stock and if the shareholder does not elect to allocate the adjusted basis of the old stock between the old stock and the stock rights. Allocation of the adjusted basis of the old stock shall be made in the same manner as it is made under section 307 of the Federal Internal Revenue Code of 1954, as amended, and this subsection shall be otherwise construed and administered in accordance with that section and section 305 of the Federal Internal Revenue Code of 1954, as amended.

- (b) This subsection shall apply to all such distributions that have been heretofore or that may hereafter be made, except that in any case where such a distribution has been reported or treated for the purposes of this chapter in a manner different from that provided in this subsection the basis of the stock or stock rights acquired shall be adjusted pursuant to such reasonable rules or regulations as the tax commissioner may prescribe to prevent an unfair burden upon, or benefit to, the taxpayer.
- (c) For the purposes of this subsection the words "Federal Internal Revenue Code of 1954, as amended" shall mean the Federal Internal Revenue Code of 1954, as amended to December 31, 1958.

Approved March 19, 1959.

CHAPTER 395

S. B. No. 77
(Gronvold)

GROSS INCOME EXCLUSIONS

AN ACT

To amend and reenact section 57-3818 of the North Dakota Revised Code of 1943, as amended, relating to the exemption from the state income tax of all income accruing as federal social security benefit payments, or as North Dakota old age and survivors insurance system payments.

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

§ 1. Amendment.) Section 57-3818 of the North Dakota Revised Code of 1943, as amended, is hereby amended and reenacted to read as follows:

57-3818. Items Not Included in Gross Income.) The term "gross income" does not include the following items, which shall be exempt from taxation under this chapter:

1. Proceeds of life insurance policies and contracts paid upon the death of the insured to individual beneficiaries or to the estate of the insured;
2. The amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts other than federal social security retirement contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract;
3. The value of property acquired by gift, bequest, devise, or descent, but the income from such property shall be included in gross income;
4. Interest upon obligations of the United States or its possessions or upon obligations of the state of North Dakota or any political subdivisions thereof except that interest upon non-tax-exempt securities at present or in the future shall be included in gross income and be subject to tax;
5. Any amount received through accident or health insurance or under workmen's compensation acts as compensation for personal injuries or sickness, plus the amount of damages received whether by suit or agreement on account of such injuries or sickness;

6. Wages received by each minor dependent of the taxpayer, provided the wages of such dependent are less than six hundred dollars during the taxpayer's income year;
- *7. Any amount received as federal social security benefit payments or as North Dakota old age and survivors insurance system payments.

Approved March 19, 1959.

CHAPTER 396

S. B. No. 140

(Andre, Holand, Garaas)

(By request)

DEDUCTION OF ADDITIONAL DEPRECIATION ALLOWANCE

AN ACT

To amend section 57-3822 of the 1957 Supplement to the North Dakota Revised Code of 1943 by creating and enacting subsection 14 of this section to provide for deduction of an additional depreciation allowance; and declaring an emergency.

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

§ 1. Amendment.) Section 57-3822 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended by creating and enacting subsection 14 to read as follows:

14. An additional depreciation allowance of 20 percent of the cost of tangible personal property purchased for use in a trade or business or for the production of income to be deducted only in the first income year in which a regular depreciation deduction is allowable. The cost of property on which this additional depreciation allowance may be deducted shall not exceed \$10,000.00 on a separate return and \$20,000.00 on a joint return. Any taxpayer, except a trust, may elect to deduct this additional first-year depreciation and it may be deducted with respect to such property purchased after December 31, 1957 by any taxpayer, except a trust, whose income year ends after June 30, 1958; provided that the election shall be made at the time and in the manner that the similar election for federal income tax purposes is made and that the deduction shall be limited to the conditions under which the similar deduction for federal income tax purposes may be taken.

*Note: Another subsection 7 of section 57-3818 was also created by chapter 394.

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

Approved March 19, 1959.

CHAPTER 397

H. B. No. 738
(Brown)
(By request)

INCOME TAX

AN ACT

To amend and reenact section 57-3849 and subsection 3 of section 57-3842 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to filing and recording income tax liens and relating to time for filing of returns of information at the source.

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

§ 1. **Amendment.)** Section 57-3849 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3849. Preservation of Lien.) In order to preserve the lien provided in section 57-3848 against subsequent mortgagees, purchasers or judgment creditors, for value and without notice of the lien, on any property situated in any county, the tax commissioner shall file with the register of deeds of the county in which said property is located, a notice of said lien. The register of deeds of each county shall prepare and keep in his office a book to be known as index of tax liens, so ruled as to show in appropriate columns the following data, under the names of taxpayers arranged alphabetically:

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

The register of deeds shall endorse on each notice of lien the day, hour, and minute when received and shall preserve the same, and forthwith shall index said notice in the index book and shall record the lien in the manner provided for recording real estate mortgages. Such lien shall be effective as against subsequent creditors, purchasers, and encumbrancers from the

time of the recording thereof. The tax commissioner shall pay a recording fee as provided by law for the recording of such lien, or for the satisfaction thereof; provided that the register of deeds shall accept any such lien for filing and recording when it is received whether or not the filing and recording fees are paid at that time.

§ 2. Amendment.) Subsection 3 of section 57-3842 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

3. All information returns required under subsection 1 of this section shall be made on the basis of a calendar year for payments made or accrued during the calendar year and shall be filed with the tax commissioner on or before April fifteenth of the year following the calendar year for which made. All partnership returns required under subsection 2 of this section shall be made on or before the fifteenth day of the fourth month following the close of the fiscal year of the partnership required to make the return, or if the return is made on the basis of a calendar year, then the return shall be made on or before the fifteenth day of April in the year following the calendar year for which such return is made.

Approved March 5, 1959.

CHAPTER 398

H. B. No. 791

(Finance and Taxation Committee)

IMPOSITION OF SALES TAX

AN ACT

To amend and reenact section 57-3902 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the imposing of a sales tax and the effective dates therefor.

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

§ 1. Amendment.) Section 57-3902 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3902. Tax Imposed.) There is hereby imposed, beginning the first day of July, 1959, and ending the first day of July, 1961, a tax of two percent upon the gross receipts from all sales of tangible personal property, consisting of goods,

wares, or merchandise, except as otherwise provided in this chapter, sold at retail in the state of North Dakota to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of steam, gas, electricity, water and communication service, including the gross receipts from such sales by any municipal corporation furnishing steam, gas, electricity, water and communication service to the public in its proprietary capacity, except as otherwise provided in this chapter, when sold at retail in the state of North Dakota to consumers or users; and a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement and athletic events and the playing of a record on a vending machine, in response to a coin placed in a slot, except as otherwise provided in this chapter. The tax herein levied shall be computed and collected as hereinafter provided.

Approved March 9, 1959.

CHAPTER 399

H. B. No. 745

(Balerud, Poling, Christopher)

OXYGEN SALES EXEMPT FROM SALES TAX

AN ACT

To amend and reenact section 57-3903 of the 1957 Supplement to the North Dakota Revised Code of 1943, by creating and enacting subsection 9 relating to the exemption from sales tax of gross receipts from the sale of oxygen used for medicinal purposes.

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

§ 1. Amendment.) Section 57-3903 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted by creating and enacting subsection 9 to read as follows:

9. Gross receipts from sales of oxygen sold to any person who purchases it upon the written order of a doctor for his own use for medical purposes.

Approved March 12, 1959.

CHAPTER 400

H. B. No. 857
(Committee on Delayed Bills)
(By request)

SALES AND USE TAX COLLECTION LIMITATION

AN ACT

To amend and reenact subsection 2 of section 57-3915 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the limitation of time within which collection of sales and use taxes may be enforced.

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

§ 1. Amendment.) Subsection 2 of section 57-3915 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2. If any tax imposed by this chapter or by chapter 57-40 of the North Dakota Revised Code of 1943, as it may be amended, remains unpaid, a proceeding in court for the collection of such tax may be begun at any time within fifteen years after the due date of such tax; provided that no limitation of time to collect such tax shall apply if the failure to pay such tax was due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax.

Approved March 16, 1959.

CHAPTER 401

H. B. No. 607
(Berntson, Burk, Dahl, Guy, Sorlie,)
(Stockman, Van Sickle)

MOTOR FUEL TAX CREDIT TO RETAIL DEALERS

AN ACT

To create and enact section 57-4135 of the North Dakota Revised Code of 1943 providing that a credit of a percentage of the motor vehicle fuel tax be given to retail dealers purchasing from bulk dealers, and allowing a deduction of such credits from the amount of tax due the state.

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

§ 1.) Section 57-4135 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

57-4135. Sales of Motor Vehicle Fuels to Retail Dealers in Motor Vehicle Fuels.) Whenever a dealer in motor vehicle fuels makes a sale to a retail dealer he shall credit the retail dealer with one percent of the total state motor vehicle fuel tax applied to the gallonage sold on the face of the delivery invoice at the time of delivery of the motor vehicle fuel in consideration of evaporation and shrinkage losses and the retailer's cost of collection of the tax. On making payments to the state auditor as provided in this chapter and all other laws pertaining to the tax on motor vehicle fuel, the dealer shall deduct the total credit allowance granted on sales to retail dealers in motor vehicle fuels under the provisions of this section, in addition to other deductions allowed, from the amount of the tax due.

Approved March 11, 1959.

CHAPTER 402

S. B. No. 228

(Mutch, Gronvold, Johnson)

PAYMENT OF MOTOR FUEL TAX

AN ACT

To amend and reenact section 57-4305 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to payment of tax.

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

§ 1. Amendment.) Section 57-4305 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-4305. Payment of Tax.) The tax collected upon motor vehicle fuel sold in any calendar month shall be remitted by the dealer to the state auditor not later than the twenty-fifth day of the calendar month following the month of sale, who shall receipt to the dealer therefor, and forthwith shall pay over all the money thus received to the state treasurer.

Approved March 10, 1959.

CHAPTER 403

S. B. No. 115

(Mutch, Johnson, Ringsak, Kee)

ASSIGNMENT OF REFUND CLAIMS ON MOTOR FUEL TAX

AN ACT

To amend and reenact section 57-5011 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the assignment of refund claims on motor fuel tax.

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

§ 1. Amendment.) Section 57-5011 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-5011. Assignment of Refund Claims.) Any person eligible for motor fuel tax refund under chapter 57-50 of this title, who has been sold such fuel by a seller on open account with the seller paying the refundable fuel tax, may assign to such seller his claim for such refund by attaching the assignment agreement to the refund claim form to be submitted by the claimant in accordance with section 57-5002 of the 1957 Supplement to the North Dakota Revised Code of 1943. Where such assignment of claim is made, and the claim is allowed under the provisions of chapter 57-50, the check or warrant issued therefor shall be made payable to both the claimant and his assignee hereunder. In addition, refund claims on motor fuel tax resulting from sales of motor fuel occurring during the period from the first day of April through the thirty-first day of August may be assigned to the seller of the fuel when any sales receipt for the purchase of motor fuel on which a tax refund is owing under chapter 57-50 of this title becomes thirty days or more old. The purchaser may assign to the seller his claim for refund by attaching the assignment agreement and sales receipts to the refund claim form to be submitted by claimant in accordance with section 57-5002 of the 1957 Supplement to the North Dakota Revised Code of 1943. Where such assignment is made the seller may forward it to the state auditor for credit on his fuel tax return in the amount of the refund owing on the assigned sales receipt. Any purchaser who shall assign his claim for refund under the provisions of this Act shall file an annual report with the state auditor. Such report forms shall be furnished by the state auditor in substantially the same form as is prescribed in section 57-5002 of the 1957 Supplement to the North Dakota Revised Code of 1943.

Approved March 3, 1959.

CHAPTER 404

H. B. No. 659

(Halcrow, Bratcher, Anderson of Richland,
(Wolf, Trom, Hauf, Idso, Johnson)

SPECIAL FUEL TAX EXEMPTIONS

AN ACT

To amend and reenact subsections (5) and (7) of section 57-5203, section 57-5204 and section 57-5217 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the special fuel tax and exempting special fuel sold for heating, agricultural or railroad purposes and providing for the administration thereof.

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

§ 1. Amendment.) Subsections 5 and 7 of section 57-5203 of the 1957 Supplement to the North Dakota Revised Code of 1943 are hereby amended and reenacted to read as follows:

5. "Sale" means the receipt, delivery or transfer of title to special fuels by a special fuel dealer to a special fuel user except that it shall not include the receipt, delivery, or transfer of title to special fuels to be used for heating, agricultural and railroad purposes;
7. "Special fuel user" means any person receiving or purchasing special fuel except that it shall not include a person purchasing or receiving special fuels when such fuel is to be used for heating, agricultural or railroad purposes nor shall it include a special fuel dealer purchasing or receiving special fuel for resale.

§ 2. Amendment.) Section 57-5204 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-5204. Tax Imposed; Exemptions.) There is hereby levied and imposed an excise tax of six cents per gallon 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 shall be exempt from the tax imposed by this chapter. Said tax shall attach at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state auditor as hereinafter provided. The tax imposed herein shall be refundable when used for industrial or other nonhighway purposes, and the provisions and procedures of chapter 57-50 of the 1957 Supplement

to the North Dakota Revised Code of 1943 relating to the refund of motor fuel taxes shall apply to the tax imposed by this chapter.

§ 3. Amendment.) Section 57-5217 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-5217. Rules and Regulations, Administration.) The state auditor shall enforce the provisions of this chapter and may prescribe, adopt, and enforce reasonable rules and regulations relating to the administration and enforcement thereof for both special fuel dealers and special fuel users. The state auditor may examine the records of special fuel dealers and special fuel users and make other such investigations as he may deem necessary in the administration and enforcement of this chapter.

Approved March 5, 1959.