

TAXATION

CHAPTER 503

HOUSE BILL NO. 1216
(Committee on Finance and Taxation)
(At the request of the Tax Department)

NONCURRENT ACCOUNTS

AN ACT to create and enact a new subsection to section 57-01-02 of the North Dakota Century Code, relating to the powers and duties of the tax commissioner, and providing the authority to remove certain uncollectable accounts from the tax commissioner's records.

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

SECTION 1.) A new subsection to section 57-01-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

May maintain an accounting system which includes a special category of accounts designated as noncurrent accounts. Said noncurrent accounts shall be those accounts which are uncollectable as a matter of law or those accounts where all reasonable collection efforts over a period of six years have produced no results. After examination by the state auditor, and upon his recommendation for cause, specific accounts may be removed by the commissioner from noncurrent status and all records pertaining thereto immediately destroyed.

Approved March 9, 1975

CHAPTER 504

SENATE BILL NO. 2237
(Committee on State and Federal Government)
(At the request of the Tax Department)

OFFICE HOURS OF TAX COMMISSIONER

AN ACT to amend and reenact section 57-01-03 of the North Dakota Century Code, relating to the office of the tax commissioner and office hours of that office.

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

SECTION 1. AMENDMENT.) Section 57-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-01-03. OFFICE OF COMMISSIONER.) The office of the tax commissioner shall be at the state capitol. The tax commissioner may appoint such deputies, employees, clerks, experts, and other persons as are necessary in maintaining his office and performing duties for which the legislative assembly may appropriate funds.

Approved March 19, 1975

CHAPTER 505

HOUSE BILL NO. 1290
(Gackle)EXEMPTION OF PROPERTY OF THE
UNITED STATES

AN ACT to amend and reenact subsection 1 of section 57-02-08 of the North Dakota Century Code, relating to exemption from taxation of property of the United States.

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

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

1. All property, real or personal, owned exclusively by the United States except any such property which the state and its political subdivisions are authorized by the laws of the United States to tax;

Approved March 12, 1975

CHAPTER 506

HOUSE BILL NO. 1333
(Rau)

DISABLED VETERANS PROPERTY TAX EXEMPTION

AN ACT to amend and reenact subsection 20 of section 57-02-08 of the North Dakota Century Code, relating to property exempt from taxation belonging to disabled veterans or their unremarried widows.

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

SECTION 1. AMENDMENT.) Subsection 20 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- *20. Fixtures, buildings, and improvements upon lots in any city up to a net assessed valuation of ten thousand dollars for paraplegic disabled veterans, and four thousand dollars or in the alternative personal property up to an assessed valuation of four thousand dollars, used and owned as a homestead, as defined in section 47-18-01, by any other disabled veteran who was discharged under honorable conditions or who has been retired from the armed forces of the United States with a service-connected disability of fifty percent or more, or his unremarried widow if such veteran is deceased, provided, however, that such veteran and his wife, or if such veteran is deceased his unremarried widow, do not earn more than five thousand dollars net income exclusive of any compensation for service-connected disability from the United States government during the calendar year for which such exemption is claimed, and who shall have a certificate from the United States veterans administration, or its successors, certifying the amount of his disability. To obtain such exemption, an affidavit accompanied by such certificate, showing the facts herein required and a description of the property, shall be filed with the county auditor. Such affidavit and accompanying certificate shall be opened to public inspection. The board of county commissioners is hereby authorized to cancel the unpaid taxes for any year in which such veteran shall have held title to such exempt property;

Approved March 17, 1975

*NOTE: Subsection 20 of section 57-02-08 was also amended by section 1 of House Bill No. 1591, chapter 507.

CHAPTER 507

HOUSE BILL NO. 1591
(Royse)

TAX EXEMPTIONS FOR DISABLED PERSONS

AN ACT to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to a tax exemption for paraplegic persons; and to amend and reenact subsection 20 of section 57-02-08 of the North Dakota Century Code, relating to an exemption for disabled veterans.

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

SECTION 1. AMENDMENT.) Subsection 20 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- *20. Fixtures, buildings, and improvements up to the amount of valuation specified, when owned and occupied as a homestead, as hereinafter defined, by any of the following persons:
- a. A paraplegic disabled veteran of the United States armed forces, or his unremarried widow if such veteran is deceased, provided that this exemption shall not exceed ten thousand dollars of net assessed valuation.
 - b. A disabled veteran of the United States armed forces who was discharged under honorable conditions or who has been retired from the armed forces of the United States with an armed forces service connected disability of fifty percent or greater, or his unremarried widow if such veteran is deceased, if the income of such veteran and his wife, or if such veteran is deceased the income of his unremarried widow, in the calendar year prior to the year for which the exemption is claimed did not exceed five thousand dollars from all sources exclusive of any compensation or pension for service connected disability from the United States government, provided that this exemption shall not exceed four thousand dollars of assessed valuation.

Any person claiming an exemption under this subsection

*NOTE: Subsection 20 of section 57-02-08 was also amended by section 1 of House Bill No. 1333, chapter 506.

for the first time shall file with the county auditor an affidavit showing the facts herein required and a description of the property and, in addition, a disabled veteran claiming exemption under subdivision b shall also file with his affidavit a certificate from the United States veterans' administration, or its successors, certifying to the amount of his disability; such affidavit and certificate shall be open for public inspection. Any such person shall thereafter furnish to the assessor or other assessment officials when requested to do so any information which he believes will support his claim for exemption for any subsequent year.

For purposes of this subsection "homestead" shall have the meaning provided in section 47-18-01 except that it shall also apply to any person who otherwise qualifies under the provisions of this subsection whether or not such person is the head of a family. The board of county commissioners is hereby authorized to cancel the unpaid taxes for any year in which such veteran shall have held title to such exempt property;

SECTION 2.) A new subsection to section 57-02-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

Fixtures, buildings, and improvements up to a net assessed valuation of ten thousand dollars when owned and occupied as a homestead, as hereinafter defined, by a paraplegic disabled person, or if such person is deceased the unremarried spouse, if the income of such person and spouse, or if such person is deceased the income of the unremarried surviving spouse, in the calendar year prior to the year for which the exemption is claimed did not exceed five thousand dollars from all sources. To obtain such exemption for the first time, a certificate from a medical doctor who is approved by the board of county commissioners, accompanied by an affidavit, showing the facts herein required and a description of the property, shall be filed with the county auditor. Such affidavit and accompanying certificate shall be opened to public inspection. Any person claiming the exemption for any year after the first year shall furnish to the assessor or other assessment officials when requested to do so any information which he believes will support his claim for the exemption for any subsequent year. For purposes of this subsection "homestead" shall have the meaning provided in section 47-18-01 except that it shall also apply to any person who otherwise qualifies under the provisions of this subsection whether or not such person is the head of a family. The board of county commissioners is hereby authorized to cancel the unpaid taxes for any year in which such person shall have held title to such exempt property.

Approved April 8, 1975

CHAPTER 508

SENATE BILL NO. 2439
(Conlin, J. Schultz)

SOLAR ENERGY SYSTEM EXEMPTION

AN ACT to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to the exemption from property taxes of solar energy systems to heat or cool buildings and structures, and to provide for a time limitation.

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:

Installations, machinery, and equipment of systems which utilize solar energy for the heating or cooling of new or existing buildings or structures, provided that if a building or structure has a conventional heating or cooling system which is supplemented by a solar energy system, only the solar energy portion of the total system shall be exempt. Provided, however, that any exemptions granted by this subsection shall be valid for a five-year period following installation of any such system.

Approved April 8, 1975

CHAPTER 509

HOUSE BILL NO. 1397
(Gackle)

HOMESTEAD CREDIT

AN ACT to amend and reenact subsections 1 and 2 of section 57-02-08.1 and section 57-02-08.2 of the North Dakota Century Code, relating to the homestead credit, and providing for full state reimbursement for the loss of revenue to counties and other taxing districts; and providing an appropriation.

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

SECTION 1. AMENDMENT.) Subsections 1 and 2 of section 57-02-08.1 of the 1973 Supplement to the North Dakota Century Code are 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 - PENALTY FOR FALSE STATEMENT.)

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 five thousand dollars or less per annum from all sources, including the income of any person dependent upon him, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, shall receive a reduction in the assessment on the assessed valuation on his homestead as defined in section 47-18-01, except that this exemption shall apply to any person who otherwise qualifies under the provisions of this subsection regardless of whether or not such person 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 two thousand five hundred dollars, a reduction of one hundred percent of the assessed valuation of the person's homestead up to a maximum reduction of three

*NOTE: Subsection 1 of section 57-02-08.1 was also amended by section 593 of Senate Bill No. 2039, chapter 106.

thousand dollars of assessed valuation.

- b. If the person's income is in excess of two thousand five hundred dollars and not in excess of three thousand five hundred dollars, a reduction of seventy-five percent of the assessed valuation of the person's homestead up to a maximum reduction of one thousand five hundred dollars of assessed valuation.
- c. If the person's income is in excess of three thousand five hundred dollars and not in excess of four thousand five hundred dollars, a reduction of fifty percent of the assessed valuation of the person's homestead up to a maximum reduction of one thousand dollars of assessed valuation.
- d. If the person's income is in excess of four thousand five hundred dollars and not in excess of five thousand dollars, a reduction of twenty-five percent of the assessed valuation of the person's homestead up to a maximum reduction of five hundred dollars of assessed valuation.

In no case shall a husband and wife who are living together both be entitled to the credit as provided for in this subsection upon their homestead. The provisions of this subsection shall not reduce the liability of any person for special assessments levied upon his property. Any person eligible for the exemption herein provided shall sign a statement that he is sixty-five years of age or older or is permanently and totally disabled and that such income, including that of any dependent, as determined in this chapter does not exceed five thousand dollars per annum. The term "dependent" shall include the spouse, if any, of the person claiming the exemption. Any person knowingly signing a false statement shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. 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 five 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 five 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 five percent of his annual income, but such refund shall not be in excess of one hundred dollars. In no case shall a husband and wife who are living together both be entitled to the refund as provided for in this subsection. Each application for refund under this subsection shall be made to the tax commissioner before the first day of March 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. AMENDMENT.) Section 57-02-08.2 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-08.2. HOMESTEAD CREDIT - CERTIFICATION.) Prior to March 1, 1975, and of each year thereafter, the county auditor of each county shall certify to the state tax commissioner on forms prescribed by him the name and address of each person for whom the homestead credit provided for in section 57-02-08.1 was allowed for the preceding year, the amount of exemption allowed, the total of the tax mill rates of all taxing districts, exclusive of any state mill rates, that was applied to other real estate in such taxing districts for the preceding year, and such other information as may be prescribed by the tax commissioner.

The tax commissioner shall audit such certifications, make such corrections as may be required, and certify to the state treasurer for payment to each county on or before June 1, 1975, and of each year thereafter, the sum of the amounts computed by multiplying the exemption allowed for each such homestead in the county for the preceding year by the total of the tax mill rates, exclusive of any state mill rates, that was

applied to other real estate in such taxing districts for that year.

The county treasurer upon receipt of the payment from the state treasurer shall forthwith apportion and distribute it to the county and to the local taxing districts of the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.

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 or because of approval of any application for abatement filed by a person because the exemption provided for in section 57-02-08.1 was not allowed in whole or in part.

SECTION 3. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$3,286,014.00, or so much thereof as may be necessary, to the state treasurer for the reimbursement of county tax credits as increased by this Act, for the biennium beginning July 1, 1975, and ending June 30, 1977.

Approved April 8, 1975

CHAPTER 510

HOUSE BILL NO. 1593
(Gackle)

PROPERTY TAXABLE TO LESSEE

AN ACT to amend and reenact section 57-02-26 of the North Dakota Century Code, relating to taxation of certain property to lessee or equitable owner.

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.) 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.

Approved April 8, 1975

CHAPTER 511

SENATE BILL NO. 2433
(Wright)PRORATING TAXES BETWEEN VENDOR
AND PURCHASER

AN ACT to amend and reenact section 57-02-41 of the North Dakota Century Code, relating to attachment of tax lien and prorating taxes as between vendor and purchaser.

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

SECTION 1. AMENDMENT.) Section 57-02-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-41. ATTACHMENT OF TAX LIEN AND PRORATING TAXES AS BETWEEN VENDOR AND PURCHASER.) All taxes, as between vendor and purchaser, shall become a lien on real estate on and after the first day of January following the year for which such taxes were levied. If taxable real property is acquired in any year after the assessment date by an owner in whose hands it will be exempt from taxation, the taxes on it for the portion of the year that it was not exempt, computed to the nearest month, shall constitute a personal charge against the person from whom it was acquired and all of the provisions of law for payment and collection of personal property taxes shall be applicable to such prorated taxes.

If exempt real property is acquired in any year after the assessment date by an owner in whose hands it is taxable, it shall be assessed as omitted property and the taxes on it for that portion of the year that it is not exempt, computed to the nearest month, shall be subject to all of the provisions for payment and collection that are applicable to taxes for the same year on other real property.

Approved March 14, 1975

CHAPTER 512

HOUSE BILL NO. 1109
(Freborg)

GAME AND FISH IN LIEU PAYMENTS

AN ACT to amend and reenact section 57-02.1-05 of the North Dakota Century Code, relating to the computation of payments in lieu of real estate taxes by the game and fish commissioner.

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

SECTION 1. AMENDMENT.) Section 57-02.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02.1-05. COMPUTATION OF PAYMENT - REMITTANCE TO COUNTIES.)

1. Upon receipt of the decision of the state board of equalization, the state game and fish commissioner shall compute the payments due to the counties in which property subject to valuation is located by extending the mill levies which apply to other taxable property in the taxing districts in which the property is located. Such mill levies shall be extended against the property subject to valuation in the same manner as used for other taxable property in such taxing districts. The payments due to each county shall be the figure determined as herein provided. No county shall receive less in such payments for any parcel or tract of land for any year than such county received in payments made pursuant to this chapter for 1974.
2. After computing the payments due to each county, the state game and fish commissioner shall remit to such counties the amounts due from the department, on or before March first of the succeeding year for which the assessments and valuations were made.

Approved March 17, 1975

CHAPTER 513

HOUSE BILL NO. 1332
(Schuett)

NOTICE OF INCREASED ASSESSMENTS

AN ACT to amend and reenact section 57-12-09 of the North Dakota Century Code, relating to notification of increase in assessed valuation.

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

SECTION 1. AMENDMENT.) Section 57-12-09 of the 1973 Supplement to the North Dakota Century Code is hereby amended and re-enacted to read as follows:

57-12-09. WRITTEN NOTICE OF INCREASED ASSESSMENT TO REAL ESTATE OWNER.) When any assessor has increased the assessed valuation of any lot or tract of land together with any improvements thereon by fifteen percent or more of the last assessment, written notice of the amount of increase over the last assessment, and the amount of the last assessment shall be delivered by such assessor to the property owner or mailed to him at his last known address except that no such notice need be delivered or mailed if the assessment is increased by less than three hundred dollars. The tax commissioner shall prescribe suitable forms for this notice and such notice shall also show the estimated market value of the property, including such improvements, that the assessor used in making the assessment for the current year and for the year in which the last assessment was made and shall also show the date prescribed by law for the meeting of the local equalization board of the assessment district in which the property is located and the meeting date of the county equalization board. Such notice shall be mailed or delivered to the property owner at least ten days in advance of the meeting date of the local equalization board and shall be mailed or delivered at the expense of the assessment district for which the assessor is employed.

Approved April 8, 1975

CHAPTER 514

HOUSE BILL NO. 1215
(Marsden)MEETING DATE FOR STATE BOARD
OF EQUALIZATION

AN ACT to amend and reenact section 57-13-03 of the North Dakota Century Code, relating to changing the meeting date of the state board of equalization from the fourth to the second Tuesday in August.

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

SECTION 1. AMENDMENT.) Section 57-13-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 12, 1975

CHAPTER 515

HOUSE BILL NO. 1210
(Committee on Political Subdivisions)
(At the request of the Tax Department)

SPECIAL ASSESSORS

AN ACT to amend and reenact subsection 2 of section 57-14-08 of the North Dakota Century Code, relating to appointment and compensation of special assessors.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 57-14-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The board of county commissioners then may appoint some competent citizen of this state as a special assessor who shall make a reassessment of the property specified by the board, and who shall proceed in accordance with the provisions of law governing assessors. Such special assessor shall be allowed reasonable compensation, not to exceed eighty dollars per day, by the board of county commissioners for his services, together with meals and lodging as allowed by law, and mileage expense at the rate allowed by law for each mile actually and necessarily traveled in the performance of his duties, which shall be audited and allowed by the board of county commissioners and paid out of the county treasury upon warrant of the county auditor. If the reassessment was ordered by the tax commissioner, such commissioner shall appoint some competent citizen of this state as a special assessor who shall make a reassessment of the property specified by the commissioner and who shall proceed in accordance with the provisions of law governing assessors; such special assessor shall be allowed reasonable compensation by the commissioner for his services, not to exceed eighty dollars per day, together with meals, lodging, and mileage expense at the rates provided by law, and the commissioner shall audit and allow the bill, and the same shall be paid out of the county treasury. In either case, such compensation shall be charged to the political

subdivision in which such reassessment was made and shall be deducted by the county treasurer from funds coming into his hands apportionable to such subdivision. The board of county commissioners or tax commissioner who appoints a special assessor may authorize such assistants as may be necessary to aid the special assessor and shall allow reasonable compensation, not to exceed eighty dollars per day, for each of such assistants together with meals, lodging, and mileage expense at the rates provided by law, which amounts shall be audited, allowed, and paid and shall be charged to the political subdivision reassessed in the manner provided for the special assessor;

Approved April 8, 1975

CHAPTER 516

HOUSE BILL NO. 1224
(Gackle, Backes)

COUNTY TAX LEVIES

AN ACT to amend and reenact section 57-15-06 of the North Dakota Century Code, relating to the limitations on county tax levies.

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

SECTION 1. AMENDMENT.) Section 57-15-06 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06. LIMITATIONS ON COUNTY TAX LEVIES.) County tax levies shall be limited as follows:

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

the county would yield, and the balance in said fund shall not be considered in determining the budget or the amount that may be levied. Such mill limitation shall not apply:

- a. To tax levies made for the purpose of paying the principal and interest on any obligations of the county evidenced by the issuance of bonds;
- b. To tax levies made to pay the county tuition provided for by section 57-15-24;
- c. To taxes levied for the purpose of combating gophers pursuant to section 4-16-02;
- d. To taxes levied pursuant to any statute which expressly provides that the taxes authorized to be levied therein shall not be subject to the twenty-three-mill limitations for general and special county purposes;
- e. To taxes levied for the purpose of establishing and maintaining a library fund for public library services; or
- f. To taxes levied for road and bridge purposes pursuant to the election provisions of section 24-05-01.

Approved April 8, 1975

CHAPTER 517

HOUSE BILL NO. 1121
(Tweten, Mertens, Erickson)

COUNTY ROAD PROGRAMS

AN ACT to amend and reenact section 57-15-06.3 of the North Dakota Century Code, relating to the authority of county commissioners to amend the official county road program without an election; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 57-15-06.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.3. COUNTY ROAD PROGRAM INCLUDING FARM TO MARKET AND FEDERAL AID - TAX LEVY.) The board of county commissioners of any county in this state may prepare a proposed county construction program of farm to market and federal aid roads on the county road system, setting forth a general description of the roads to be constructed, the location of bridges constituting a part of the program, the approximate total mileage, and the priority of construction. After approval of such program by the state highway department and the federal highway administration, the board may submit such program to the electors of the county with the question of levying a tax of not to exceed ten mills upon the net taxable assessed valuation of all property in the county for the completion of such program by matching, from the proceeds of such tax, federal funds available for federal aid, secondary and feeder roads, farm to market roads, and all roads as provided for under Public Law 769, 81st Congress, or future federal aid highway acts of a similar character. If the majority of the electors voting on the question approved such program and levy, annually thereafter until such program is completed the board shall levy a tax not in excess of ten mills, which levy shall not be subject to the county mill levy limitations, and the proceeds of such tax shall be used, except as herein provided, only for matching federal aid available for such program which shall be the official county road program. If the board of county commissioners determines that a substantial change is necessary in the details of the program of farm to market and federal aid roads previously approved by the electors of the county, the board shall set a date for a public hearing on the proposed amendment to the program. Notice of the public hearing shall be mailed by certified letter to all property owners adjoining road affected by the amended road program and to any other property owners whom the county commissioners may deem necessary. The notice shall be sent thirty days prior to the

public hearing. Notice shall also be published in the official newspaper of the county once a week for three consecutive weeks before the date of public hearing. The board, after approval of the amendment by the state highway department and the federal highway administration, may officially amend the program. The program, as amended by the board, shall become the official county road program. Any proceeds of a tax levy in excess of the amount needed to match federal funds in any year may be used by the county, at any time such proceeds may become available, for providing paved or any other type of road surfacing on roads included within the county road program for which the tax levy was originally made. Such paved or other type road surfacing may be used only after the question has been submitted to the electors of the county at a special election called for that purpose by the county commissioners. The use of such excess funds shall be approved by a majority of the electors voting at such special election. An appeal may be taken under this section as provided in section 11-11-39.

SECTION 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 25, 1975

CHAPTER 518

HOUSE BILL NO. 1234
(Erickson)

SCHOOL BUILDING FUND LEVY

AN ACT to amend and reenact section 57-15-16 of the North Dakota Century Code relating to tax levies for building funds in school districts.

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

SECTION 1. AMENDMENT.) Section 57-15-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-16. TAX LEVY FOR BUILDING FUND IN SCHOOL DISTRICTS.)

1. The governing body of any school district shall levy taxes annually for a school building fund, not in excess of twenty mills, which levy shall be in addition to and not restricted by the levy limitations prescribed by law, when authorized to do so by sixty percent of the electors voting upon the question at a regular or special election in any school district. The governing body of such school district may create such building fund by appropriating and setting up in its budget for such an amount not in excess of twenty percent of the current annual appropriation for all other purposes combined, exclusive of appropriations to pay interest and principal of the bonded debt, and not in excess of the limitations prescribed by law. In all cases where a portion or all of the proceeds of such levy have been allocated by contract to the payment of rentals upon contracts with the state school construction board, such levy shall be made annually by the governing body of the school district until the full amount of all such obligations is fully paid. Upon the completion of all payments to the state school construction fund, such levy may be discontinued at the discretion of the governing body of the school district, or, upon petition of twenty percent of the electors who voted in the last school election, the question of discontinuance of the levy shall be submitted to the electors of the school district at any regular or special election and, upon a favorable vote of sixty percent of the electors voting, such levy shall be discontinued. Any school district, executing a

contract or lease with the state school construction board, which contract or lease requires the maintenance of the levy provided in this section, shall immediately file a certified copy of such contract or lease with the county auditor or auditors of the county or counties in which such school district is located. The county auditor or auditors shall register such contract or lease in the bond register in substantially the manner provided in section 21-03-23. Upon the filing of such contract or lease with the county auditor or auditors, the school district shall be without power to discontinue such levy and such levy shall automatically be included in the tax levy of such school district from year to year by the county auditor or auditors until a sufficient sum of money has been collected to pay to the state treasurer for the retirement of all obligations of such school district with the state school construction board.

2. The school board of any school district, in levying taxes for a school building fund as provided for in subsection 1 of this section, shall specify on the ballot the number of mills to be levied, and may in its discretion submit a specific plan for which such fund shall be used. The plan shall designate the general area intended to be served by use of such fund. The area intended to be served shall be described in the plan but need not be described in the building fund ballot. After approval of the levy and the plan no change shall be made in the purpose of expenditure of the building fund except that upon a favorable vote of sixty percent of the electors residing in any specific area intended to be served, material changes may be made in such plan as it affects such area to the extent such changes do not conflict with contractual obligations incurred. The provisions of this section and of subsection 1 of section 57-15-17 in regard to the purpose for which the building fund may be expended shall not apply to expenditures for major repairs.

Approved March 12, 1975

CHAPTER 519

HOUSE BILL NO. 1352
(Lee, Weber)

TOWNSHIP LEVIES FOR FEDERAL AID ROADS

AN ACT to amend and reenact section 57-15-19.4 of the North Dakota Century Code, relating to use of the township five-mill levy for federal aid farm to market roads.

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

SECTION 1. AMENDMENT.) Section 57-15-19.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-19.4. TOWNSHIP FIVE-MILL LEVY FOR ROADS.)

1. The electors of each township shall have power at the annual meeting to levy not over five mills on the dollar of the net taxable assessed valuation for the purpose of cooperating with the county in constructing and maintaining federal aid farm to market roads within such township. The tax levy provided herein shall be over and above the limitations specified in section 57-15-20 and shall be made only if notice of the question of the approval of such levy has been included with or upon the notice of the annual meeting provided for in section 58-04-01.
2. In the event that no federal aid farm to market roads are built within ten years of the date the first mill levy pursuant to subsection 1 was made, the board of township supervisors may by resolution authorize the expenditure of all such funds collected and accumulated and the earnings thereon for the construction, improvement, or maintenance of other roads or for any other township purpose.

Approved March 17, 1975

CHAPTER 520

HOUSE BILL NO. 1474
(Rued)

DEADLINE FOR BUDGET AMENDMENTS

AN ACT to create and enact a new section to chapter 57-15 of the North Dakota Century Code, relating to a final deadline date for any taxing district to amend its current budget.

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

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

DEADLINE DATE FOR AMENDING BUDGETS.) Notwithstanding any other provision of law, no taxing district shall amend its current budget, and no county auditor shall accept said amended budget, after the tenth day of October of each year if such amendment results in a change in the amount of tax levied.

Approved March 17, 1975

CHAPTER 521

HOUSE BILL NO. 1169

(Committee on Finance and Taxation)

(At the request of the Department of Public Instruction)

TRANSFER OF SPECIAL ASSESSMENT FUNDS

AN ACT to amend and reenact section 57-15-41 of the North Dakota Century Code, relating to fund transfer.

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

SECTION 1. AMENDMENT.) Section 57-15-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-41. POLITICAL SUBDIVISION TAX LEVIES FOR PAYMENT OF SPECIAL ASSESSMENTS EXEMPT FROM LEVY LIMITATIONS.) No tax levy limitations provided by any statute of this state shall apply to tax levies heretofore or hereafter made by any county, city, school district, park district, or township for the purpose of paying any special assessments made in accordance with the provisions of title 40 of this Code, against property owned by such county, city, school district, park district, or township. Any surplus in the special assessment fund after all of the special assessments for which the fund was created have been paid shall be placed in the general fund of the political subdivision.

Approved March 12, 1975

CHAPTER 522

HOUSE BILL NO. 1382
(Rocheleau)

FIRE DEPARTMENT RESERVE FUND LEVY

AN ACT to amend and reenact section 57-15-42 of the North Dakota Century Code, relating to city fire department reserve fund levy.

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

SECTION 1. AMENDMENT.) Section 57-15-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-42. CITY FIRE DEPARTMENT RESERVE FUND LEVY.) The governing body of any city, when authorized to do so by sixty per cent of the electors voting on the question in a regular or special election called by the governing body, may levy taxes annually, not in excess of two mills on the net taxable assessed valuation, for a fire department building or equipment reserve fund. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law. The proceeds of such levy shall be placed in a separate fund known as the fire department reserve fund and shall be used solely and exclusively for the purchase of necessary fire-fighting equipment or building therefor. No levy shall be made under this section during any period in which the moneys in the fund equal or exceed an amount equal to the sum that would be produced by a levy of thirty mills upon the net taxable assessed valuation of the city making such levy.

Approved March 17, 1975

CHAPTER 523

HOUSE BILL NO. 1223
(A. Hausauer)

DATES FOR PROPERTY TAX STATEMENTS

AN ACT to amend and reenact sections 57-20-06 and 57-20-07.1 of the North Dakota Century Code, relating to the dates for delivering tax lists to county treasurers and for mailing property tax statements.

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

SECTION 1. AMENDMENT.) Section 57-20-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-06. TAX LISTS DELIVERED TO TREASURER.) On or before December tenth in each year, the county auditor shall deliver the tax lists of the several districts of the county to the county treasurer, taking his receipt therefor. Such lists shall be authority for the county treasurer to receive and collect taxes therein levied. The county auditor, immediately upon delivering such lists to the county treasurer, shall charge such treasurer with the amount of the lists delivered to him, as shown in the recapitulation thereof in a book prepared for that purpose, and he also shall charge the county treasurer in such tax list account with all additional assessments made after such lists are delivered, and shall credit him with all amounts collected thereon, and such other amounts as may be deducted lawfully from such lists.

SECTION 2. AMENDMENT.) Section 57-20-07.1 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-07.1. COUNTY TREASURER TO MAIL REAL ESTATE TAX STATEMENT.) On or before December twenty-sixth of each year, the county treasurer shall mail a real estate tax statement to the owner of each parcel of real property at his last-known address. Such tax statements shall include a dollar valuation of the estimated current market value of the property and the total mill levy applicable. Failure of an owner to receive a statement will not relieve that owner of liability, nor extend the discount privilege past the February fifteenth deadline.

Approved March 12, 1975

CHAPTER 524

HOUSE BILL NO. 1597
(Schuett)

EQUALIZATION MEETING NOTICES

AN ACT to amend and reenact section 57-23-02 of the North Dakota Century Code, relating to publication of notice of equalization meetings; and to repeal sections 51-05-01, 51-05-02, 51-05-03, 51-05-04, 57-02-42, 57-02-43, 57-02-44, 57-02-45, 57-02-46, and 57-02-49 of the North Dakota Century Code, relating to notice to county treasurer of personal property sold at public auction, to exemption of personal property in transit.

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

SECTION 1. AMENDMENT.) Section 57-23-02 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-02. NOTICE OF EQUALIZATION MEETINGS TO BE PUBLISHED.) Each year the county auditor shall cause to be published in the official county newspaper for two successive weeks, the first publication to be not earlier than March first, and the last publication not later than March twentieth, a notice to the effect that proceedings for the equalization of assessments will be taken by the several local equalization boards as follows: in any organized township on the second Monday in April, and in any city on the second Tuesday in April, at the office of the clerk or auditor of the township, or city, as the case may be, and that each taxpayer has the right to appear before the appropriate board of review or equalization and petition for correction in his assessment.

*SECTION 2. REPEAL.) Sections 51-05-01, 51-05-02, 51-05-03, 51-05-04, 57-02-42, 57-02-43, 57-02-44, 57-02-45, 57-02-46, and 57-02-49 of the North Dakota Century Code are hereby repealed.

Approved March 27, 1975

*NOTE: Chapter 51-05 was repealed by section 2 of Senate Bill No. 2173, chapter 449, and section 57-02-45 was also repealed by section 673 of Senate Bill No. 2039, chapter 106.

CHAPTER 525

SENATE BILL NO. 2093
(Stroup)SURFACE OWNER RIGHTS UPON TAX SALE
OF MINERAL RESERVES

AN ACT to amend and reenact section 57-24-30 of the North Dakota Century Code, relating to the rights of surface owners when severed coal and mineral interests are sold for nonpayment of taxes.

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

SECTION 1. AMENDMENT.) Section 57-24-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-24-30. SALE OF COAL AND MINERAL RESERVES FOR NONPAYMENT OF TAX - RIGHT OF SURFACE OWNER TO MATCH HIGHEST BID.) If any holder of the title to coal or minerals, reserved after a sale of the overlying strata or land, neglects or refuses to pay any taxes legally assessed and levied thereon at such time as now is or hereafter may be required by law for the payment of real property taxes in this state, such title shall be sold in the manner provided by law for the sale of real property for delinquent taxes. The county treasurer, at the time he mails the notice required by section 57-24-01, shall also mail a copy of such notice to the owner of the surface overlying the severed mineral interest described in the notice. Provided, however, that at any sale of severed mineral interests for nonpayment of taxes, the surface owner shall have the right to match the highest bid and to thereby purchase such severed mineral interests. Such right of the surface owner is forfeited unless exercised within ten days after the tax sale.

Approved March 19, 1975

CHAPTER 526

HOUSE BILL NO. 1508
(E. Metzger)

NOTICE OF EXPIRATION ON TAX SALE LANDS

AN ACT to amend and reenact subsection 1 of section 57-27-02 and section 57-28-03 of the North Dakota Century Code, relating to the contents of a notice of expiration of the period of redemption of lands sold by tax sale.

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

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

1. Every person holding a tax sale certificate, at any time after the expiration of three years from the date of the tax sale to which such certificate relates, and before ten years from such date have expired, may present the certificate to the county auditor, who thereupon shall prepare under his hand and seal, a notice to the person in whose name the lands described in the certificate are assessed, and to all mortgagees or assignees of mortgages holding unsatisfied recorded mortgages, specifying in such notice the description of such lands, the amount for which the same were sold, the amount required to redeem the same from sale, inclusive of delinquent installments of special assessments, exclusive of the costs to accrue on such notice, and the time when the redemption period will expire;

SECTION 2. AMENDMENT.) Section 57-28-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-28-03. AMOUNT OF DELINQUENT TAXES TO BE INCLUDED IN NOTICE OF EXPIRATION.) The county auditor shall include in the notice of the expiration of the period of redemption all real estate taxes, including delinquent installments of special assessments, where three or more years have expired from the date of the original, or any subsequent, tax sale certificate, issued or deemed to have been issued at the time of the service of such notice, but such notice shall show separately the amount of delinquent taxes and delinquent installments of special assessments, with penalties and interest, due for each year, and the total amount which is required to be paid to effect a redemption of the real estate from such tax deed proceedings.

Approved March 18, 1975

CHAPTER 527

HOUSE BILL NO. 1569
(Glassheim)

INTEREST AND PENALTY RATES

AN ACT to amend and reenact sections 57-32-03, 57-33.1-05, 57-35-05, 57-35.1-05, 57-35.2-03, subsection 1 of section 57-37-16, subsection 5 of section 57-38-34, sections 57-38-36 and 57-51-10 of the North Dakota Century Code, relating to interest and penalty rates and providing for a standard rate.

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

SECTION 1. AMENDMENT.) Section 57-32-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-32-03. TAX CERTIFIED TO STATE TREASURER - WHEN DUE AND DELINQUENT.) On or before the thirty-first day of March in each year, the tax commissioner shall file with the state treasurer a certified list of all companies assessed under the provisions of this chapter for the preceding year, together with the valuations and taxes assessed in each case. Such taxes shall be due upon the fifteenth day of April next following the date of certification. The taxes shall become delinquent on the first day of May and, if not paid on or before said date, shall be subject to a penalty of two percent and, on June first following delinquency, an additional penalty of two percent and, on July first following delinquency, an additional penalty of two percent and, an additional penalty of two percent on October fifteenth following delinquency. From and after January first of the year following the year in which the taxes became due and payable, simple interest at the rate of twelve percent per annum upon the principal of the unpaid taxes 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. All the provisions of the law respecting delinquency of personal property assessments generally so far as may be consistent with the provisions of this chapter shall be applicable equally to the assessments and taxes provided for in this chapter.

SECTION 2. AMENDMENT.) Section 57-33.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-33.1-05. DATE WHEN TAXES DUE - PAYABLE TO TAX COMMISSIONER - PENALTIES.) The taxes levied under the provisions of this chapter shall become due and payable to the tax commissioner on the fifteenth day of June following the year in which such taxes were levied. Such taxes shall become delinquent on the first day of July following and, if not paid on or before such date, shall be subject to a penalty of one percent, and on August first following an additional penalty of one percent, and on September first following an additional penalty of one percent, and for every month thereafter of the year in which such taxes are due and payable an additional penalty of two percent shall be levied. 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 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.

SECTION 3. AMENDMENT.) Section 57-35-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35-05. DUE DATE.) All taxes levied and assessed under the terms and provisions of this chapter shall become due on the thirty-first day of December following the report to the tax commissioner provided in section 57-35-07, and shall become delinquent on the first day of March next after they become due. Thereupon a penalty of five percent shall attach and be charged upon all delinquent taxes, and thenceforth interest shall be charged at the rate of one percent per month of the original amount of the tax until the same is paid.

SECTION 4. AMENDMENT.) Section 57-35.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.1-05. TAX PAYMENT - DELINQUENCY PAYMENT.) The taxes levied and assessed under this chapter shall be payable on the thirty-first day of December following the report to the tax commissioner under section 57-35.1-03, and shall become delinquent if not paid on or before the first day of March next following; thereafter a penalty of five percent shall attach and be charged at the rate of one percent per month of the original amount of the tax until the same is paid.

SECTION 5. AMENDMENT.) Section 57-35.2-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.2-03. TAX RETURN - PAYMENT OF TAX.) On or before the fifteenth day of April in each year, each bank, trust company, and building and loan association shall file a return with the state tax commissioner, on forms to be provided by him and remit the tax imposed by this chapter for the preceding calendar year. Taxes due and unpaid by the fifteenth day of April for the preceding calendar year shall be deemed delinquent, and a penalty of

five percent shall attach and be charged on all such delinquent taxes, and thenceforth interest shall be charged at the rate of one percent per month of the original amount of delinquent taxes until such taxes are paid.

SECTION 6. AMENDMENT.) Subsection 1 of section 57-37-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 1. The tax imposed by this chapter shall be due and payable at the death of the decedent, and, if not paid within fifteen months after the date of death, shall bear interest at the rate of eight percent per annum to be computed from the expiration of fifteen months after death until the amount is paid. The transfer shall be deemed to take place at the time of death, and all appraisals shall be as of that date, unless otherwise provided in this chapter. Wherever there has been a taxable transfer prior to death on which the tax has not been paid, the property transferred shall be considered a part of the estate and shall be appraised as of the date of death of the decedent and taxed according to the laws then in force.

SECTION 7. AMENDMENT.) Subsection 5 of section 57-38-34 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The tax commissioner may grant a reasonable extension of time for filing a return when, in his judgment, good cause exists. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest on the tax at the rate of eight percent per annum from the date the tax would have been due if the extension had not been granted to the date the tax is paid.

SECTION 8. AMENDMENT.) Section 57-38-36 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 57-38-36. WHEN PAYMENT OF TAX MAY BE MADE IN QUARTERLY INSTALLMENTS.) If the total tax, after the deduction of any of the following: income taxes withheld, declaration of estimated income taxes paid, credit for taxes paid to another state, or any credits or deductions, exceeds one hundred dollars it may be paid in quarterly installments, and if paid in such installments, the first installment shall be paid at the time fixed by this chapter for filing the return, the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month after the time fixed by law for filing the return. Interest at the rate of eight percent per annum shall be charged on all unpaid installment balances during the period from the date fixed by this chapter for filing the return and the date payment of the installment is due. If a taxpayer elects under the provisions of this section to pay the

*NOTE: Chapter 57-37 was repealed by section 3 of Senate Bill No. 2278, chapter 528.

*NOTE: Section 57-38-36 was also amended by section 1 of House Bill No. 1579, chapter 542.

tax in installments, any installment may be paid prior to the date prescribed for its payment. If an installment is not paid in full on or before the date fixed for its payment the whole amount of the unpaid tax shall be paid upon notice and demand from the tax commissioner, and penalty and interest, as provided in section 57-38-45, shall attach, from and after the time of the failure to make such timely payment, to the whole amount of the unpaid tax.

SECTION 9. AMENDMENT.) Section 57-51-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-51-10. PROCEEDINGS AND PENALTY ON DELINQUENCY.) Where the tax provided for in this chapter shall become delinquent it shall, as a penalty for such delinquency, bear interest at the rate of twelve percent per annum, and shall be collected in the manner hereinafter provided. If any person shall fail to make any report herein required, within the time prescribed by law for such report, it shall be the duty of the commissioner to examine the books, records, and files of such person to ascertain the amount and value of such production to compute the tax thereon as provided herein, and he shall add thereto the cost of such examination, together with any penalties accrued thereon.

Approved March 27, 1975

CHAPTER 528

SENATE BILL NO. 2278
(Goodman, Freed, Melland)

ESTATE TAXES

AN ACT to create and enact chapter 57-37.1 of the North Dakota Century Code, relating to an estate tax; to provide an effective date; and to repeal chapter 57-37 of the North Dakota Century Code, relating to an estate tax.

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

SECTION 1.) Chapter 57-37.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-37.1-01. DEFINITIONS.) The following words, terms, and phrases, when used in this chapter, have the meaning ascribed to them in this section, except when the context clearly indicates a different meaning:

1. "Federal gross estate" means the gross estate of a decedent as determined for federal estate tax purposes pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended.
2. "Federal taxable estate" means the taxable estate of a decedent as determined for federal estate tax purposes pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended.
3. "Personal representative" or "personal representative of an estate" means the executor or administrator of the decedent, or, if there is no executor or administrator appointed, qualified, and acting within this state, then any person in actual or constructive possession of any property having a situs in this state which is included in the federal gross estate of the decedent.
4. "Resident decedent" means an individual whose residence at the time of his or her death was in North Dakota according to the rules for determining residence as provided in section 54-01-26.
5. "Nonresident decedent" means an individual who at the time of his or her death was not a resident decedent.
6. "Situs of property" means, as to real property, the state or country in which it was situated at the time

of the decedent's death; as to tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death; as to intangible personal property, the state or country in which the decedent was a resident at death; and when used in reference to property having a situs in North Dakota it also means the county in which the property has its situs as determined in accordance with this subsection.

7. "Tax commissioner" means the tax commissioner of the state of North Dakota.
8. "United States Internal Revenue Code of 1954, as amended" means the United States Internal Revenue Code of 1954 as amended to and including December 31, 1974.

57-37.1-02. TAX ON TRANSFER OF ESTATES.) A tax is hereby imposed upon the transfer of the North Dakota taxable estate of every decedent as prescribed in this chapter.

57-37.1-03. DETERMINATION OF NORTH DAKOTA TAXABLE ESTATE.) The North Dakota taxable estate of a decedent shall be determined as follows:

1. If all of the property included in the federal gross estate of a decedent has a situs in North Dakota, the North Dakota taxable estate shall be the federal taxable estate less the federal estate taxes paid on the transfer thereof.
2. If only a part of the property included in the federal gross estate of a decedent has a situs in North Dakota, the North Dakota taxable estate shall be the amount that is obtained by subtracting from the federal taxable estate the federal estate taxes paid on the transfer thereof and then multiplying that difference by a fraction which has as its numerator the value of the portion of the federal gross estate having a situs in North Dakota and which has as its denominator the value of the total federal gross estate.

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

NORTH DAKOTA TAXABLE ESTATE		RATES OF TAX	
FIRST \$30,000		2% OF TAXABLE ESTATE	
OVER	BUT NOT OVER		OF EXCESS OVER
\$ 30,000	\$ 60,000	\$ 600 plus 4%	\$ 30,000
60,000	100,000	1,800 plus 5%	60,000
100,000	200,000	3,800 plus 7%	100,000
200,000	400,000	10,800 plus 9%	200,000
400,000	600,000	28,800 plus 11%	400,000

\$ 600,000	\$ 800,000	\$ 50,800 plus 13%	\$ 600,000
800,000	1,000,000	76,800 plus 15%	800,000
1,000,000	1,500,000	106,800 plus 17%	1,000,000
1,500,000	-----	191,800 plus 20%	1,500,000

57-37.1-05. PROPERTY PREVIOUSLY TAXED.) Whenever property can be identified as having been received by a decedent by gift, bequest, devise, or inheritance within five years prior to decedent's death, or can be identified as having been acquired in exchange for property so received, a credit for any transfer taxes paid pursuant to the provisions of this chapter or former chapter 57-37 within five years upon such property shall be allowed upon the transfer tax at his death, but this credit shall not exceed the tax due under the present appraisalment of such property for transfer tax purposes.

57-37.1-06. ESTATE TAX RETURN REQUIRED - TAX COMMISSIONER TO ASSESS TAX - COUNTY COURT TO APPORTION FEDERAL AND STATE ESTATE TAXES.) The personal representative of an estate shall file with the tax commissioner the estate tax return required by this chapter. The tax commissioner shall assess the tax payable pursuant to the provisions of this chapter and furnish the personal representative with a statement thereof; if all of any part of the property included in the federal gross estate is being administered by the county court of any county in this state, the tax commissioner shall also furnish a copy of the statement to that county court. The federal and North Dakota estate taxes shall be apportioned as provided in section 30.1-20-16.

57-37.1-07. TAXES PAYABLE AS OF DATE OF DEATH - INTEREST RATE.) The tax imposed by this chapter shall be due and payable at the death of the decedent, and if not paid within fifteen months after the date of death, shall bear interest at the rate of twelve percent per annum to be computed from the expiration of fifteen months after death until the amount is paid.

57-37.1-08. COLLECTION AND DISTRIBUTION OF TAX - REFUNDS.)

1. The tax commissioner shall collect the tax imposed by this chapter and shall pay over the same to the state treasurer at the end of each calendar month and at the time of payment shall provide the state treasurer with a listing of estates of decedents from which the taxes were collected, together with a certificate as to the location and value of real estate and personal property for each estate.
2. Following the end of each calendar quarterly period, the state treasurer shall pay over to the county treasurer of the appropriate county, for its general fund, the amount of tax collected on the transfer of the property in that county. If any part of decedent's property at the time of decedent's death had a legal situs within the limits of a city, the share of tax based on such property shall be divided by the state treasurer between the city and the county in proportion to their respective mill levies, except school levies, for the calendar

year preceding the year of death. If any part of decedent's property had a legal situs outside the limits of a city, the share of tax based on said property shall go entirely to the county. If the tax determined to be due pursuant to this chapter is in an amount which is one hundred dollars or less, no further apportionment pursuant to this section shall be made and the entire amount due shall be distributed to a county or counties in which the legal situs of the property is located for their general fund.

3. In case an overpayment of such tax has been made for the estate of a decedent, such overpayment shall be repaid out of any undistributed estate taxes in the hands of the state treasurer upon an order of the tax commissioner. The state treasurer shall thereupon present and file with the appropriate county treasurers and city treasurers a verified claim of such overpayment accompanied by a copy of the order of the tax commissioner for such refund and the county and city treasurers shall pay such claim to the state treasurer.

57-37.1-09. LIEN FOR TAXES - BENEFICIARIES TO SHARE BURDEN OF TAX.)

1. Any tax imposed by this chapter shall be and shall remain a lien upon the property transferred, and upon all property acquired by the personal representative for a period of ten years from the date of death of the decedent or until the tax is paid or a bond is given for its payment, whichever comes first, but such lien shall not affect any tangible or intangible personal property after it has passed to a bona fide purchaser for value.
2. The lien charged upon any real estate or separate parcel thereof may be discharged by the payment of all taxes due and to become due on said real estate or separate parcel, or by the filing and acceptance of a bond for their payment, or by an order of the tax commissioner transferring such lien to other real estate owned by the person to whom said real estate or any separate parcel thereof passes.
3. The beneficiaries shall be personally liable for their respective share of the tax imposed by this chapter, as well as the personal representative, and if the personal representative pays such tax, he shall have the right to recover the tax from the beneficiaries in accordance with the provisions of section 30.1-20-16. No general statute of limitation shall be considered as a bar to the collection of the respective share of the estate tax from each beneficiary. For the purposes of this chapter, the term "beneficiary" shall mean any person receiving an interest in property of a decedent which is subject to inclusion in the decedent's federal gross estate and which had a situs in North Dakota at the time of decedent's death.

4. Any unpaid taxes imposed by this chapter shall be and remain a lien upon the property transferred, and upon all property acquired by the personal representative, for a period of ten years from the date of death of the decedent.
5. Any lien which may have attached to real property pursuant to the provisions of the various inheritance tax laws or estate tax laws that were in effect prior to the enactment of the provisions of this chapter shall terminate in accordance with the provisions of law that were in effect at the time the lien attached.

57-37.1-10. PERSONAL REPRESENTATIVE TO FURNISH NECESSARY DOCUMENTS TO THE TAX COMMISSIONER.) The personal representative shall furnish to the tax commissioner:

1. One copy of application for determination of estate tax for the decedent.
2. Two copies of certificate of estate tax determination.
3. A copy of decedent's will, if any.
4. A copy of the federal estate tax return.
5. Such other information as the tax commissioner shall require.

The tax commissioner shall notify the personal representative of the amount of such assessment prior to execution of the certificate of estate tax determination, but failure to receive such notice from the tax commissioner shall not excuse the nonpayment of the tax nor invalidate the tax or interest thereon in any way.

57-37.1-11. VALUATIONS, REPORTS, INVENTORIES, ESTATE TAX APPLICATIONS AND SUPPLEMENTS.)

1. The valuation of all property includible in the North Dakota taxable estate of a decedent shall be subject to review and approval of the tax commissioner.
2. It shall be the duty of the personal representative to file an estate tax return and, before the final settlement of an estate, to furnish a supplemental or amended inventory and amended estate tax return listing all property and taxable transfers or other events that have come to his knowledge since the first inventory or estate tax return was made which would result in a change in either the amount of the estate tax initially determined or the statements made by the affiant therein. He also shall furnish copies of any documents or records, and any other information pertaining to the estate, or the value thereof, upon request of the tax commissioner.
3. It shall be the further duty of the personal representative to file an amended estate tax return within ninety days after any amended estate tax return is filed

pursuant to the provisions of the United States Internal Revenue Code. If no amended federal estate tax return is filed but the federal estate tax return is changed or corrected, such change or correction shall be reported to the tax commissioner within ninety days after the final determination of such change or correction is made, and the tax commissioner shall reassess the estate tax thereon. Upon receipt of an amended estate tax return or, upon notification of any change or correction made on the federal estate tax return, the tax commissioner shall reassess the estate tax.

4. Notwithstanding any other provisions of this chapter, the tax commissioner shall not be bound by any action or determination made in regard to any federal estate tax return by the United States internal revenue service.

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

57-37.1-13. DEPOSITORIES - NOTICE OF TRANSFER OF DECEDENT'S ASSETS.)

1. Any safe deposit company, trust company, corporation, bank, or other institution or person having possession, control, custody, or partial control or custody of any securities, deposits, or other assets, including shares of the capital stock of, or other interest in, such safe deposit company, trust company, corporation, bank, or other institution, standing in the name of a resident or nonresident decedent, or belonging to or standing in the joint name of such decedent and one or more other persons, who delivers or transfers the same to the personal representative, agent, deputy, trustee, legatee, heir, surviving joint owner, or any other successor in interest of such decedent, shall give the tax commissioner notice of the amount paid and the name or names and addresses of the transferees, which notice shall be

- on a form prescribed by the tax commissioner. Such notice shall be filed with the tax commissioner within thirty days from the date of payment. If no notice is given by the transferor, as prescribed herein, the transferor shall be liable for any estate tax which is unpaid on the asset which was transferred.
2. In the case of an insurer paying proceeds of a life insurance contract in which the decedent had an incident of ownership, determined pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, the insurer may pay the proceeds of the life insurance contract to the stated beneficiary in the contract immediately, however, the insurer shall give the tax commissioner notice of the amount paid to the beneficiary and any other information required by the tax commissioner regardless of the amount of the contract. Such notice shall be filed with the tax commissioner within thirty days from the date of payment.
 3. The provisions of subsection 1 of this section shall not apply when a request for the transfer of securities has been made by any trust company acting as the personal representative of an estate, provided that the trust company is qualified to do business under the laws of the state of North Dakota.

57-37.1-14. PENALTIES.) Any person or corporation violating any provision of section 57-37.1-12 or section 57-37.1-13, shall be guilty of a class A misdemeanor, and in addition thereto, shall be liable for the amount of the taxes, interest, and penalties due under this chapter on the securities, deposits, or other assets contained in such box or receptacle at the time of any unauthorized access thereto. Such penalties may be enforced in an action brought by the states attorney or the tax commissioner.

57-37.1-15. LIABILITY OF REPRESENTATIVES.) A personal representative shall be liable for all taxes payable on the estate with interest as provided in this chapter until the same have been paid. In no case shall such personal representative be liable for a greater sum than is actually received by him.

57-37.1-16. PENALTY FOR FALSE STATEMENTS OR REPORTS.) Every person who willfully and knowingly subscribes or makes any false statement of facts, or knowingly subscribes or exhibits any false paper or false report with intent to deceive the tax commissioner, or any appraiser appointed pursuant to the provisions of this chapter, or title 30.1, shall be guilty of a class A misdemeanor.

57-37.1-17. SUPERVISION BY TAX COMMISSIONER.)

1. The tax commissioner shall have complete supervision of the enforcement and collection of all taxes due under this chapter, and shall make such rules and regulations as may be necessary for the interpretation and enforcement thereof. The tax commissioner may call upon other

departments of the state government for cooperation and assistance in the enforcement and collection of these taxes and may employ such attorneys, examiners, and special agents as may be necessary to carry out the intent and the purposes of this chapter.

2. The duly promulgated federal estate tax rules and regulations shall apply to this chapter insofar as they are not inconsistent with any specific provision of this chapter or are not inconsistent with any rule or regulation duly promulgated by the tax commissioner.
3. The tax commissioner may prescribe such forms, application blanks, and printed matter as may be necessary for the carrying out and enforcement of this chapter. He also shall keep such records as are indicated by good accounting practice in such manner as to provide statistical information to the legislative assembly.

57-37.1-18. PRELIMINARY APPRAISAL WHERE NO ESTATE TAX RETURN FILED.)

1. In all cases wherein the tax commissioner has reason to believe that the estate of a decedent may be subject to assessment of tax under the provisions of this chapter, and no estate tax return has been filed within fifteen months following the death of the decedent, the tax commissioner shall cite the personal representative, said citation to include a demand for the filing of a return and payment of the tax within thirty days.
2. If any personal representative cited under subsection 1 of this section refuses or neglects within thirty days after such notice to file a proper return, or files a fraudulent or incorrect return, the tax commissioner shall determine the North Dakota taxable estate of the decedent in question according to his best information and belief and shall assess the tax at not more than double the amount that would otherwise be assessed.

57-37.1-19. ASSESSMENT OR DETERMINATION OF ADDITIONAL TAX LIABILITY BY TAX COMMISSIONER - HEARING.) In any instance where the tax commissioner has disapproved a return, or an assessment or determination has been made by the tax commissioner pursuant to the provisions of this chapter and said assessment results in a liability that is in addition to that which has been reported, or is as a result of action taken by the tax commissioner pursuant to the provisions of section 57-37.1-17, the personal representative or any beneficiary shall have a right to a hearing before the tax commissioner. Written demand for a hearing must be made of the tax commissioner within thirty days from the disapproval of a return, or notice of assessment, or determination on such disapproval of return, or assessment, or determination and such person making demand for a hearing shall have a right to appeal to the district court from the decision of the tax commissioner on such hearing and all of the provisions of chapter 28-32 relating

to proceedings before an administrative agency, including the right to appeal to the courts from the decision of the tax commissioner in such a proceeding, shall be applicable to and shall govern the notice of hearing, the hearing, and the right of appeal from the decision of the tax commissioner thereon.

57-37.1-20. ACTIONS TO QUIET TITLE TO PROPERTY.) An action may be brought against the state by any interested person for the purpose of quieting title to any property against a lien, or claim of lien, for an estate tax under this chapter, or for the purpose of having it determined that any such property is not subject to any lien and is not chargeable with any tax under this chapter. No such action shall be maintained where proceedings are pending in any court in this state wherein the liability of such property for taxes under this chapter may be determined. All parties interested in said property and in the taxability thereof shall be made parties thereto, and any interested person who refuses to join as plaintiff therein may be made a defendant. A summons for the state in such action shall be served upon the states attorney of the county where commenced and upon the tax commissioner.

57-37.1-21. WHEN RETURN REQUIRED - TAX COMMISSIONER'S RELEASE.)

1. The personal representative shall file an estate tax return pursuant to this chapter for the estate of any decedent for which a federal estate tax return is required to be filed if the federal gross estate includes any property or interest in property that has a situs in North Dakota.
2. If it shall appear to the personal representative of an estate that no filing requirement for an estate tax return exists, he may file a verified petition, in duplicate, with the tax commissioner showing the value and form of ownership of all the real and personal property includable in the gross estate of the decedent. In addition to including said real and personal property in the petition, the petition shall also contain the name, the age at time of death, the date of death, and the residence of the decedent, and the name of the heirs and beneficiaries of the decedent.

If the tax commissioner finds that in no event could there be an estate tax filing requirement for the estate of the decedent, the tax commissioner shall issue to the personal representative a certificate of the tax commissioner that no estate tax return is required to be filed. Said certificate shall contain a list of the real property includable in the gross estate of the decedent. This certificate may be recorded in the office of the register of deeds of the county in which lands of the decedent are situated, and such record will release as against any property described within said certificate any estate tax lien upon the estate of the named decedent.

If the tax commissioner finds that an estate tax return is required to be filed, he shall so notify the personal representative of his finding and the fact determination upon which such finding is made.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for the estate of any decedent whose death occurs on or after July 1, 1975.

* SECTION 3. REPEAL.) Chapter 57-37 of the North Dakota Century Code is hereby repealed.

Approved March 22, 1975

*NOTE: Section 57-37-16 was amended by section 6 of House Bill No. 1569, chapter 527; section 57-37-30 was amended by section 607 of Senate Bill No. 2039, chapter 106; and section 57-37-32 was also repealed by section 673 of Senate Bill No. 2039, chapter 106.

CHAPTER 529

SENATE BILL NO. 2098
(J. Schultz)UPDATING OF FEDERALIZATION
OF INCOME TAXES

AN ACT to amend and reenact subsection 21 of section 57-38-01 of the North Dakota Century Code, relating to income tax definitions, and providing an effective date.

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

SECTION 1. AMENDMENT.) Subsection 21 of section 57-38-01 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21. "Federal Internal Revenue Code of 1954, as amended", "United States Internal Revenue Code of 1954, as amended", and "Internal Revenue Code of 1954, as amended", mean the United States Internal Revenue Code of 1954, as amended to and including December 31, 1974.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1975.

Approved February 12, 1975

CHAPTER 530

HOUSE BILL NO. 1570
(Gackle)

FEDERAL TAX AS AN ADJUSTMENT

AN ACT to amend and reenact subdivision c of subsection 1 of section 57-38-01.2 of the North Dakota Century Code, relating to the federal income tax as an adjustment to taxable income for individuals and fiduciaries; and providing for 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 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 adjustment is made by or with the office of the state tax commissioner.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1975. Provided that for the taxable year 1975 only, the taxpayer shall have the election to reduce federal taxable income by an amount computed either under subdivision c as amended in this Act or as computed under subdivision c prior to the enactment of this Act, whichever is larger.

Approved March 22, 1975

CHAPTER 531

SENATE BILL NO. 2136
(Strand, Tweten)

INCOME TAX ADOPTION ADJUSTMENT

AN ACT to amend and reenact subdivision d of subsection 1 of section 57-38-01.2 of the North Dakota Century Code, to provide an additional adjustment for adopted children for state income tax purposes.

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

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

- d. (1) Reduced by three hundred dollars if the return filed is a joint return by husband and wife. If separate returns are filed by husband and wife, no deduction can be taken under this subdivision. This subdivision shall not be applicable to estates or trusts.
- (2) Reduced by three hundred dollars if the return filed is the return of a "head of household" as defined by the United States Internal Revenue Code of 1954, as amended, provided that the term "head of household" shall also include a "surviving spouse" as defined by said Code.
- (3) Reduced by seven hundred fifty dollars for each adopted child who is under the age of twenty-one years and who is either irreversibly mentally retarded or, on the basis of the annual findings of a licensed physician, is blind or disabled as determined pursuant to the provisions of Title XVI of the United States Social Security Act, provided the return filed is the return of the parent of an adopted child and such child qualifies as a dependent of such parent for federal income tax purposes.
- (4) Reduced, up to a maximum of one thousand dollars, by the amount of filing fees, attorney's fees, and travel costs incurred in connection with an adoption and by the actual costs paid to a licensed child-placing agency in making the adoptive study and in supervising and evaluating the adoptive placement. Provided, however, that the reduction allowed under this paragraph shall apply only to such adoption expenses of a child who qualifies under the provisions of paragraph (3) of this subdivision.

Approved April 8, 1975

CHAPTER 532

SENATE BILL NO. 2377
(Shablow)

DOMESTIC DIVIDEND LIMITATION

AN ACT to amend and reenact subdivision i of subsection 1 of section 57-38-01.2 of the North Dakota Century Code, to provide limitations on the adjustment to taxable income for individuals for dividends from domestic corporations, and providing an effective date.

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

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

- i. Reduced by any dividends or income, up to a maximum of fifteen thousand dollars, 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 was received by the taxpayer as income during the income year if such corporation has reported the name and address of each North Dakota resident owning stock and the amount of dividends or income paid each such person during the year, provided, that 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 subtracted. The commissioner is hereby authorized to prescribe rules and regulations to implement this subdivision to avoid injustice to taxpayers, to prevent duplication of deductions, and to eliminate taxation of income not fairly and properly taxable under this chapter.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for taxable years beginning on or after January 1, 1975.

Approved April 8, 1975

CHAPTER 533

HOUSE BILL NO. 1161
(Bunker, Timm)

MILITARY RETIREMENT EXEMPTION

AN ACT to create and enact a new subdivision to subsection 1 of section 57-38-01.2 of the North Dakota Century Code, to provide for the exemption of military retirement pay from the state income tax, and to provide limitations.

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

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

Reduced by any amount, up to a maximum of five thousand dollars, received by any person sixty years of age or older as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof, provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the Federal Social Security Act.

Approved April 8, 1975

CHAPTER 534

HOUSE BILL NO. 1609
(Gackle)
(Committee on Delayed Bills)

EXEMPTION OF FEDERAL REFUNDS

AN ACT to provide that individuals, estates, and trusts shall not be required to restore to income for state income tax purposes any refund of their 1974 federal income tax liability that the Congress of the United States may authorize for stimulating the economy of the nation; and to provide that if either the minimum standard deduction or percentage standard deduction, or both, is increased for individuals required to file federal income tax returns for either the year 1975 or 1976, any such increased deduction shall be applicable for state income tax purposes.

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

SECTION 1. CERTAIN FEDERAL INCOME TAX REFUNDS NOT INCOME FOR STATE INCOME TAX PURPOSE.) If any individual, estate, or trust that has incurred and paid a federal income tax liability for a taxable year ending or beginning in 1974 thereafter receives a refund of a portion of such tax liability pursuant to any Act of the Congress of the United States hereafter enacted and approved for the purpose of stimulating the economy of this nation, such individual, estate, or trust shall not be required for purposes of chapter 57-38 of the North Dakota Century Code to restore to income the amount so received.

SECTION 2. CERTAIN FEDERAL INCOME TAX DEDUCTIONS FOR INDIVIDUALS TO BE ALLOWED ON STATE RETURNS.) If either the minimum standard deduction or the percentage standard deduction, or both, is increased for individuals required to file federal income tax returns for either the year 1975 or 1976 or both pursuant to any Act of the Congress of the United States hereafter enacted and approved, such increased deductions shall also be applicable for individuals required to file North Dakota income tax returns for the same year.

Approved April 8, 1975

CHAPTER 535

HOUSE BILL NO. 1239
(Committee on Finance and Taxation)
(At the request of the Tax Department)

CORPORATE INCOME TAX ADJUSTMENTS

AN ACT to amend and reenact subsection 1 of section 57-38-01.3 of the North Dakota Century Code, relating to adjustments to taxable income for corporations; and to provide an effective date.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 57-38-01.3 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

- a. Reduced by any interest received from obligations of the United States that is included in taxable income or in the computation thereof on the federal return.
- b. Reduced by any other income included in the taxable income, or in the computation thereof, on the federal return which is exempt from taxation by this state because of the provisions of the constitution of this state or the United States.
- 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.
- d. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income. However, those taxes, paid or accrued as the case may be during the applicable tax year, imposed by section 57-38-66 of this chapter shall be allowable as a deduction when determining taxable income for state income tax purposes.

- e. Increased by the amount of any interest and dividends from foreign securities and from securities of state and their political subdivisions exempt from federal income tax, provided that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included.
- f. Reduced by the amount of net income not allocated and apportioned to this state under the provisions of chapter 57-38.1, but only to the extent that the amount of net income not allocated and apportioned to this state under the provisions of that chapter is not included in any adjustment made pursuant to the preceding subdivisions.
- g. Reduced by dividends or income received by any person from stock or interest in any corporation, the income of which has been assessed and paid by a corporation under this chapter, received by the taxpayer and included in the gross income within 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, but when only part of the income of any corporation shall have been assessed and income tax paid under this chapter, only a corresponding part of the dividends or income received therefrom shall be deducted.

Provided, however, that each adjustment in the above subdivisions authorized under law shall be allowed only to the extent that the adjustment is allocated and apportioned to North Dakota income.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall become effective for all taxable years beginning on or after January 1, 1975.

Approved March 25, 1975

CHAPTER 536

SENATE BILL NO. 2130
(J. Schultz)

RETIREMENT PLAN DEDUCTION

AN ACT to provide for the deduction of contributions to certain retirement plans for state income tax purposes in the same amount as permitted for federal income tax purposes, to provide an effective date, and declaring an emergency.

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

SECTION 1. DEDUCTION FOR CONTRIBUTIONS TO RETIRMENT PLANS.) A taxpayer who contributed to a self-employment retirement plan pursuant to section 401 (e) of the Internal Revenue Code of 1954, as amended, may deduct the same amount of such contribution for state income tax purposes as permitted for federal income tax purposes.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1974.

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

Approved March 27, 1975

CHAPTER 537

SENATE BILL NO. 2324
(Lips, Solberg, J. Schultz, Melland, Nething)

TAX CREDIT FOR GIFTS TO PRIVATE COLLEGES

AN ACT relating to income tax credits for charitable contributions to nonprofit private institutions of higher education.

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

SECTION 1. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS - LIMITATION.) At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 57-38 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by such taxpayer during such year to nonprofit private institutions of higher education located within the state of North Dakota.

1. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed twenty percent of such taxpayer's total income tax under chapter 57-38 for such year, or fifty dollars, whichever is less.
2. In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent of such corporation's total income tax under this chapter for such year, or five hundred dollars, whichever is less.

For the purpose of this section, the term "nonprofit private institution of higher education" shall mean only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. This section shall apply only with respect to taxable years beginning on or after January 1, 1975.

Approved March 22, 1975

CHAPTER 538

HOUSE BILL NO. 1226
(Committee on Finance and Taxation)
(At the request of the Tax Department)

EXEMPTIONS FOR NONRESIDENTS

AN ACT to amend and reenact section 57-38-06.1 of the North Dakota Century Code, relating to exemptions for nonresident individuals.

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

SECTION 1. AMENDMENT.) Section 57-38-06.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-06.1. EXEMPTIONS FOR NONRESIDENT INDIVIDUAL.)
Notwithstanding any other provisions of law, nonresident individuals shall be permitted to deduct for North Dakota income tax purposes exemptions as prorated by the ratio that the North Dakota income bears to the total income of the nonresident individual.

Approved March 9, 1975

CHAPTER 539

HOUSE BILL NO. 1075
(Rundle)

INFLATION CREDIT

AN ACT to provide for an inflation credit against income taxes payable by individuals.

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

SECTION 1. INFLATION CREDIT ON INCOME TAXES PAYABLE - LIMITATION.) There shall be allowed to individuals required to file an income tax return a credit of twenty-five percent of the amount of tax liability imposed by section 57-38-29 for taxable years of 1975 and 1976. This credit shall be placed on the state income tax return as a separate line item entitled "inflation credit" which shall follow the computation of tax liability pursuant to the provisions of chapter 57-38. The liability of each individual taxpayer shall be reduced by the amount of this credit, provided that the maximum credit for any taxpayer shall not exceed one hundred dollars for any taxable year.

Approved April 8, 1975

CHAPTER 540

HOUSE BILL NO. 1074
(Twetten, Larson, Knudson, Fleming)

SCHOOL DISTRICT IDENTIFICATION
ON TAX RETURNS

AN ACT to amend and reenact subsection 1 of section 57-38-34 of the North Dakota Century Code, relating to the filing of income tax returns.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 57-38-34 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Returns shall be in such form as the tax commissioner from time to time may prescribe, but must contain a method for the taxpayer to identify the school district in which he resides, and shall be filed with the tax commissioner at his office in Bismarck, North Dakota. The tax commissioner shall prepare blank forms for use in making returns and shall cause them to be distributed throughout this state, but failure to receive or secure a form shall not relieve a taxpayer from making a return.

Approved March 22, 1975

CHAPTER 541

HOUSE BILL NO. 1241
(Committee on Finance and Taxation)
(At the request of the Tax Department)

FILING OF JOINT RETURNS

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to the filing of separate income tax returns by a husband and wife after joint income tax returns have been filed, and providing for an effective date.

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

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

FILING OF SEPARATE INCOME TAX RETURNS BY A HUSBAND AND WIFE AFTER JOINT INCOME TAX RETURNS HAVE BEEN FILED.) If a husband and wife filed a joint return for a taxable year for which separate returns could have been filed by them under this chapter, and the time prescribed by law for filing returns for such taxable year has expired, such husband and wife may nevertheless elect to file separate returns for such taxable year, provided that the election to file such returns may not be made after the expiration of three years from the last date prescribed by law for filing returns for such taxable year, such taxable year to be determined without regard to any extension of time granted for filing the joint return.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1975.

Approved March 12, 1975

CHAPTER 542

HOUSE BILL NO. 1579

(Bye)

QUARTERLY INSTALLMENTS

AN ACT to amend and reenact section 57-38-36 of the North Dakota Century Code, relating to the payment of tax in quarterly installments and providing for an effective date.

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

SECTION 1. AMENDMENT.) Section 57-38-36 of the 1973 Supplement to the North Dakota Century Code is hereby amended and re-enacted to read as follows:

* 57-38-36. WHEN PAYMENT OF TAX MAY BE MADE IN QUARTERLY INSTALLMENTS.) If the total tax, after the deduction of any of the following: income taxes withheld, declaration of estimated income taxes paid, credit for taxes paid to another state, or any other credits or deductions, exceeds one hundred dollars it may be paid in quarterly installments, and if paid in such installments, the first installment shall be paid at the time fixed by this chapter for filing the return, the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month after the time fixed by law for filing the return. Interest at the rate of eight percent per annum shall be charged on all unpaid installment balances during the period from the date fixed by this chapter for filing the return and the date payment of the installment is due. If a taxpayer elects under the provisions of this section to pay the tax in installments, any installment may be paid prior to the date prescribed for its payment. If an installment is not paid in full on or before the date fixed for its payment the whole amount of the unpaid tax shall be paid upon notice and demand from the tax commissioner, and penalty and interest, as provided in section 57-38-45, shall attach, from and after the time of the failure to make such timely payment, to the whole amount of the unpaid tax.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1975.

Approved March 18, 1975

*NOTE: Section 57-38-36 was also amended by section 8 of House Bill No. 1569, chapter 527.

CHAPTER 543

HOUSE BILL NO. 1170
(Gackle, Royse, K. Johnson, Kretschmar)

MINIMUM BUSINESS PRIVILEGE TAX

AN ACT to amend and reenact subsections 1 and 2 of section 57-38-66 of the North Dakota Century Code, relating to the minimum tax assessable for the business and corporation privilege tax; and to provide for an effective date.

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

SECTION 1. AMENDMENT.) Subsections 1 and 2 of section 57-38-66 of the 1973 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Each individual, estate, or trust required to file an income tax return pursuant to chapter 57-38 and each partnership required to file a partnership return pursuant to subsection 2 of section 57-38-42 who derives income from the operation of a business, trade, or profession, other than as an employee, shall pay a tax for the privilege of doing business in this state of one percent of the net income in excess of two thousand dollars derived from the operation of such business, trade, or profession, which tax shall be a separate tax that is levied in addition to the taxes provided for in chapter 57-38. For the purposes of this subsection, the term "net income" means the gross income derived from such business, trade, or profession less the expenses of carrying on such business, trade, or profession, as computed for federal income tax purposes pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended; provided that in computing gross income and net income there shall not be taken into account any gain or loss from the sale or exchange of property used in the operation of a business, trade, or profession but not held for sale in the regular course thereof; provided, further, that the net income of an individual shall not include his distributive share as a partner in the earnings of any partnership on which the partnership is required to apply the tax rate provided for in this subsection.

2. Each foreign and domestic corporation, the personal property of which is not assessed by the state board of equalization, and which is not subject to a special tax in lieu of personal property taxes, required to file an income tax return pursuant to the provisions of chapter 57-38, in addition to any other taxes imposed by such chapter, shall pay a separate and additional tax, for the privilege of doing business in this state, of one percent of its taxable income in excess of two thousand dollars computed as provided by section 57-38-01.3, except that federal income taxes paid or accrued shall not be deducted, and except as otherwise provided in this title. Each cooperative corporation required to file an income tax return pursuant to the provisions of chapter 57-38, in addition to any other taxes imposed by such chapter, shall pay a separate and additional tax, for the privilege of doing business in this state, of one percent of its net income in excess of two thousand dollars, except that this tax shall not apply to cooperative corporations taxed under the provisions of chapters 57-33, 57-33.1, and 57-34. For the purposes of this subsection, net income of a cooperative corporation shall include distributed patronage dividends, amounts allocated but withheld, and amounts earned but not allocated by the cooperative corporation. Each corporation or cooperative corporation which does business in the state of North Dakota shall be required to report its full and true income resulting from transactions completed in the state of North Dakota or from income-producing activity performed in North Dakota and shall pay the tax provided in this section on such actual North Dakota earned income.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1975.

Approved March 25, 1975

CHAPTER 544

SENATE BILL NO. 2223
(Jones)

INCOME AVERAGING

AN ACT to provide for income averaging for state income tax purposes; and to provide an effective date.

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

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

1. "Averageable income" means the amount by which taxable income for the computation year exceeds one hundred percent of average base period income.
2. "Average base period income" means one-fourth of the sum of the base period incomes for the base period.
3. "Base period" means the four taxable years immediately preceding the computation year.
4. "Base period income" means the taxable income for the base period.
5. "Computation year" means the taxable year for which the taxpayer chooses the benefits of this Act.
6. "Internal Revenue Code of 1954, as amended" has the same meaning as provided in subdivision a of subsection 21 of section 57-38-01.
7. "Taxable income" has the same meaning as provided in subsection 20 of section 57-38-01.

SECTION 2. ELIGIBILITY FOR INCOME AVERAGING.) Any taxpayer who averages his income for federal income tax purposes pursuant to subchapter Q of the Internal Revenue Code of 1954, as amended, may average his income as provided in this Act for state income tax purposes.

SECTION 3. 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 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 4. RULES AND REGULATIONS.) The tax commissioner may prescribe rules and regulations for the administration of this Act which shall be, except as otherwise required by this Act, based upon the regulations prescribed for the administration of subchapter Q of the Internal Revenue Code of 1954, as amended.

SECTION 5. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1975.

Approved March 25, 1975

CHAPTER 545

HOUSE BILL NO. 1305
(Olin)

INSTALLATIONS OUT OF STATE

AN ACT to amend and reenact subsection 3 of section 57-39.2-01 of the North Dakota Century Code, relating to the installation of tangible personal property into real estate located outside of North Dakota and providing for an exemption.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 57-39.2-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, electricity, water, and communication service to retail consumers or users; the ordering, selecting, or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, tickets, or admissions to any place of amusement, athletic event, or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding, manufacturing, producing, or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property shall be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated outside of North Dakota shall not be considered a taxable sale. As used in this subsection the word "consumer" shall include any hospital, infirmary, sanatorium, nursing home, home for the aged, or similar institution that furnishes services to any patient or occupant.

Approved March 27, 1975

CHAPTER 546

SENATE BILL NO. 2228
(Committee on Finance and Taxation)
(At the request of the Tax Department)

TRANSPORTATION SERVICES EXEMPTION

AN ACT to amend and reenact subsection 2 of section 57-39.2-04 of the North Dakota Century Code, relating to the exemption for transportation services.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 57-39.2-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Gross receipts from the sales, furnishing, or service of passenger transportation service and gross receipts from the sales, furnishing, or service of freight transportation service when provided by a common carrier.

Approved March 13, 1975

CHAPTER 547

HOUSE BILL NO. 1219
(Committee on Finance and Taxation)
(At the request of the Tax Department)

NONPROFIT ACTIVITIES SALES TAX EXEMPTION

AN ACT to amend and reenact subsection 4 of section 57-39.2-04 of the North Dakota Century Code, relating to the exemption from sales tax of the receipts from educational, religious or charitable activities, and providing for the exemption of the net receipts from such activities.

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

SECTION 1. AMENDMENT.) Subsection 4 of section 57-39.2-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs, and the gross receipts from educational, religious, or charitable activities, where the entire amount of net receipts is expended for educational, religious, or charitable purposes and the gross receipts derived by any public school district if such receipts are expended in accordance with section 15-29-13.

Approved March 12, 1975

CHAPTER 548

SENATE BILL NO. 2216
(Committee on Finance and Taxation)
(At the request of the Tax Department)

GOVERNMENTAL SALES TAX EXEMPTION

AN ACT to amend and reenact subsection 6 of section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions.

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

SECTION 1.) Subsection 6 of section 57-39.2-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Gross receipts from all sales otherwise taxable under this chapter made to the United States or to any state thereof, including the state of North Dakota, or any of the subdivisions, departments, agencies, or institutions thereof. The governmental units exempted by this subsection shall be issued a certificate of exemption by the tax commissioner and such certificate shall be presented to each retailer whenever this exemption is claimed.

Approved March 22, 1975

CHAPTER 549

SENATE BILL NO. 2326
(Goodman, J. Schultz, Ringsak, Strinden)

EXEMPTION FOR NURSING HOMES

AN ACT to create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions for all sales to nursing homes and intermediate care facilities licensed by the state health department.

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

SECTION 1.) A new subsection to section 57-39.2-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from all sales otherwise taxable under this chapter when made to any skilled nursing facility or intermediate care facility licensed by the state health department.

Approved March 27, 1975

CHAPTER 550

HOUSE BILL NO. 1128
(Powers)

RELIGIOUS MATERIALS EXEMPTION

AN ACT to create and enact a new subsection to section 57-39.2-04 and a new subsection to section 57-40.2-04 of the North Dakota Century Code, relating to exemption of religious materials from state sales and use taxes.

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

SECTION 1.) A new subsection to section 57-39.2-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from the sale of bibles, hymnals, textbooks, and prayerbooks sold to nonprofit religious organizations.

SECTION 2.) A new subsection to section 57-40.2-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Bibles, hymnals, textbooks, and prayerbooks used by nonprofit religious organizations.

Approved March 12, 1975

CHAPTER 551

HOUSE BILL NO. 1552
(Farrington)

EXEMPTION OF DEVICES FOR
HANDICAPPED PERSONS

AN ACT to create and enact new subsections to section 57-39.2-04 and 57-40.2-04 of the North Dakota Century Code, relating to exempting artificial devices individually designed for handicapped persons from the sales and use taxes.

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

SECTION 1.) A new subsection to section 57-39.2-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from sales of:

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

SECTION 2.) A new subsection to section 57-40.2-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from sales of:

- a. Artificial devices individually designed, constructed,

or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual.

- b. Artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body.
- c. Artificial teeth sold by a dentist.
- d. Eye glasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.
- e. Crutches and wheelchairs for the use of invalids and crippled persons.

Approved March 22, 1975

CHAPTER 552

SENATE BILL NO. 2140
(J. Schultz)

REMOVAL OF GOOD FAITH REQUIREMENT

AN ACT to amend and reenact subsection 2 of section 57-39.2-10 of the North Dakota Century Code, relating to required sales tax records and providing for the removal of the good faith requirement whenever a retailer accepts a resale certificate.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 57-39.2-10 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Whenever a retailer accepts a resale certificate at the time of making a sale, which sale would otherwise be subject to the sales tax, and such resale certificate contains the sales tax permit number of the purchaser, such retailer making the sale shall be relieved from submitting the sales tax upon the purchase price of the merchandise sold. Whenever a person submits a false resale certificate to a retailer, the person submitting the certificate shall be personally liable for the tax on the sale.

Approved March 12, 1975

CHAPTER 553

HOUSE BILL NO. 1217
(Committee on Finance and Taxation)
(At the request of the Tax Department)

TIME FOR RETAILERS' RETURNS

AN ACT to amend and reenact subsection 1 of section 57-39.2-11 of the North Dakota Century Code, relating to an extension of time to file a return and make payment and providing for interest on such delayed payment.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 57-39.2-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. On or before the last day of the month following the close of the first quarterly period as defined in the following section, and on or before the last day of the month following each subsequent quarterly period of three months, the retailer shall make out a return for the preceding quarterly period in such form and manner as may be prescribed by the commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further information as the commissioner may require to enable him correctly to compute and collect the tax herein levied. The commissioner, upon request by any retailer and a proper showing of the necessity therefor, may grant unto such retailer an extension of time not to exceed thirty days for making such return. If such extension is granted to any such retailer, the time in which he is required to make payment as provided for in section 57-39.2-12 shall be extended for the same period but interest shall be charged upon the amount of the deferred payment at the rate of eight percent per annum from the date the tax would have been due if the extension had not been granted to the date the tax is paid;

Approved March 17, 1975

CHAPTER 554

HOUSE BILL NO. 1471
(Ekblad, Timm)

EXCISE TAX EXEMPTION FOR BUSINESS REORGANIZATIONS

AN ACT to amend and reenact subsection 8 of section 57-40.3-01 and section 57-40.3-07 of the North Dakota Century Code, relating to the exemption from the motor vehicle excise tax for motor vehicles, the registration of which is transferred because of business reorganizations.

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

SECTION 1. AMENDMENT.) Subsection 8 of section 57-40.3-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * 8. "Sale", "sells", "selling", "purchase", "purchased", or "acquired" shall include any transfer of title or ownership of a motor vehicle by way of gift, exchange or barter, or by any other manner or by any other means whatsoever for or without consideration except that these terms shall not include:
- a. Acquisition by inheritance from, or by bequest of, a decedent who owned it;
 - b. The transfer of a motor vehicle which was previously titled or licensed in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more of the joint tenants;
 - c. The transfer of a motor vehicle by way of gift between a husband and wife, parent and child, or brothers and sisters; or
 - d. The transfer of a motor vehicle to reflect a new name of the owner caused by a business reorganization but the ownership of which business organization remains in the same person or persons as prior to the reorganization.

SECTION 2. AMENDMENT.) Section 57-40.3-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*NOTE: Subsection 8 of section 57-40.3-01 was also amended by section 1 of Senate Bill No. 2248, chapter 555.

57-40.3-07. TITLE OR LICENSE REGISTRATION NOT TO BE ISSUED UNLESS TAX PAID.) No title or license registration shall be issued by the motor vehicle registrar for the ownership or operation of any motor vehicle to any applicant for title or license registration unless the tax imposed by this chapter shall be paid by the applicant to the motor vehicle registrar except:

1. For those vehicles which have been previously licensed and the applicant for license registration is the same person in whose name the license registration had previously been issued;
2. For those vehicles transferred by way of gift between a husband and wife, parent and child, or brothers and sisters;
3. For those vehicles which have been previously licensed and the applicant for license registration is the same business organization to which the license registration had been issued but the name of which has been changed through incorporation or other reorganization in business structure but the ownership of which remains in the same person or persons as prior to the reorganization.

Approved March 25, 1975

CHAPTER 555

SENATE BILL NO. 2248
(Committee on Transportation)
(At the request of the Motor Vehicle Registrar)

MOTOR VEHICLE EXCISE TAXES

AN ACT to amend and reenact subsections 8 and 9 of section 57-40.3-01 and to create and enact new subsections to section 57-40.3-04 of the North Dakota Century Code, relating to exemptions and providing that said exemptions are found within section 57-40.3-04 of the North Dakota Century Code.

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

SECTION 1. AMENDMENT.) Subsections 8 and 9 of section 57-40.3-01 of the 1973 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- *8. "Sale", "sells", "selling", "purchase", "purchased", or "acquired" shall include any transfer of title or ownership of a motor vehicle by way of gift, exchange or barter, or by any other manner or by any other means whatsoever for or without consideration.
- *9. "Purchase price" means the total amount paid for the motor vehicle whether received in money or otherwise, provided, however, that when a motor vehicle or other tangible personal property that will be subject to a sales or use tax imposed by chapter 57-39.2 or chapter 57-40.2 when sold or used is taken in trade as a credit or as part payment on a motor vehicle taxable under this chapter, the credit or trade-in value allowed by the person selling the motor vehicle shall be deducted from the total selling price to establish the purchase price of the vehicle being sold and the trade-in allowance allowed by the seller on a motor vehicle accepted as a trade-in shall constitute the purchase price of a motor vehicle accepted as a trade-in. In instances in which a licensed motor vehicle dealer places into his service a new vehicle for the purpose of renting, leasing, or dealership utility service, the reasonable value of the vehicle replaced shall be included as trade-in value if the new vehicle is properly registered and licensed. "Purchase price" in those instances where the motor vehicle is acquired by gift or by any other transfer

*NOTE: Subsection 8 of section 57-40.3-01 was also amended by section 1 of House Bill No. 1471, chapter 554.

*NOTE: Subsection 9 of section 57-40.3-01 was also amended by section 1 of House Bill No. 1229, chapter 556.

for a nominal or no monetary consideration, shall also include the average value of similar motor vehicles, established by standards and guides as determined by the motor vehicle registrar. "Purchase price" in those instances where a motor vehicle is manufactured by a person who registers it under the laws of this state, shall mean the manufactured cost of such motor vehicle and manufactured cost shall mean the amount expended for materials, labor, and other properly allocable costs of manufacture except that, in the absence of actual expenditures for the manufacture of a part or all of the motor vehicle, manufactured costs shall mean the reasonable value of the completed motor vehicle.

SECTION 2.) New subsections to section 57-40.3-04 of the 1973 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

Motor vehicles acquired by inheritance from, or by bequest of, a decedent who owned it; the transfer of motor vehicles which were previously titled or licensed in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more of the joint tenants; the transfer of motor vehicles by way of gift between a husband and wife, parent and child, or brothers and sisters; and the transfer of a motor vehicle to reflect a new name of the owner caused by a business reorganization but the ownership of which business organization remains in the same person or persons as prior to the reorganization.

Motor vehicles transferred between a lessee and lessor, provided that the lessee has been in continuous possession of such vehicle for a period of one year or longer, and further provided that the lessor has paid either the tax imposed under this chapter at the time of titling or licensing the vehicle in this state or the use tax imposed by chapter 57-40.2.

Approved April 8, 1975

CHAPTER 556

HOUSE BILL NO. 1229
(Murphy)

DEFINITION OF PURCHASE PRICE

AN ACT to amend and reenact subsection 9 of section 57-40.3-01 of the 1973 Supplement to the North Dakota Century Code, relating to the definition of "purchase price".

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

SECTION 1. AMENDMENT.) Subsection 9 of section 57-40.3-01 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- *9. "Purchase price" means the total amount paid for the motor vehicle whether received in money or otherwise, provided, however, that when a motor vehicle or other tangible personal property that will be subject to a sales or use tax imposed by chapter 57-39.2 or chapter 57-40.2 when sold or used is taken in trade as a credit or as part payment on a motor vehicle taxable under this chapter, the credit or trade-in value allowed by the person selling the motor vehicle shall be deducted from the total selling price to establish the purchase price of the vehicle being sold and the trade-in allowance allowed by the seller on a motor vehicle accepted as a trade-in shall constitute the purchase price of a motor vehicle accepted as a trade-in. In instances in which a licensed motor vehicle dealer places into his service a new vehicle for the purpose of renting, leasing, or dealership utility service, the reasonable value of the vehicle replaced shall be included as trade-in value if the new vehicle is properly registered and licensed. "Purchase price" in those instances where the motor vehicle is acquired by gift or by any other transfer for a nominal or no monetary consideration, shall also include the average value of similar motor vehicles, established by standards and guides as determined by the motor vehicle registrar. "Purchase price" in those instances where a motor vehicle is manufactured by a person who registers it under the laws of this state, shall mean the manufactured cost of such motor vehicle

*NOTE: Subsection 9 of section 57-40.3-01 was also amended by section 1 of Senate Bill No. 2248, chapter 555.

and manufactured cost shall mean the amount expended for materials, labor, and other properly allocable costs of manufacture except that, in the absence of actual expenditures for the manufacture of a part or all of the motor vehicle, manufactured costs shall mean the reasonable value of the completed motor vehicle. The term "purchase price" shall not include the transfer of a motor vehicle by way of gift between a husband and wife, parent and child, or brothers and sisters and shall not include the transfer of a motor vehicle between a lessee and lessor, provided that the lessee has been in continuous possession of such vehicle for a period of one year or longer, and further provided that the lessor has paid either the tax imposed under this chapter at the time of titling or licensing the vehicle in this state or the excise tax imposed by chapter 57-40.2.

Approved March 17, 1975

CHAPTER 557

HOUSE BILL NO. 1164
(Olin, Mertens)

REFUND OF GAS TAXES PAID TO ANOTHER STATE

AN ACT to create and enact section 57-50-03.1 of the North Dakota Century Code, relating to the refund of taxes paid on gasoline and special fuels used and taxed in another state; and to provide an effective date.

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

SECTION 1.) Section 57-50-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-50-03.1. REFUND TO PREVENT DOUBLE TAXATION.) Any person to whom special fuel or motor vehicle fuel is sold on which the tax imposed by chapter 57-52 or chapter 57-54 has been paid who thereafter removes such fuel from this state to another state which requires payment of a tax upon the use of the fuel in that state shall be granted a refund of the tax that was paid pursuant to chapter 57-52 or chapter 57-54. Such refund shall be granted only upon application to the tax commissioner on forms prescribed by the tax commissioner, including proof of payment of the tax imposed by the other state, and shall be subject to the limitations provided in section 57-50-03. The tax provided for in chapter 57-53 shall not be levied on sales of any such fuel for which a refund of tax is made pursuant to this section.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall apply only with respect to gasoline and special fuels purchased after December 31, 1974, by the person applying for the refund.

Approved March 9, 1975

CHAPTER 558

HOUSE BILL NO. 1344
(E. Metzger)

MOBILE HOME TAX DISTRIBUTION

AN ACT to amend and reenact section 57-55-04 of the North Dakota Century Code, relating to the distribution of mobile home tax revenues.

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

SECTION 1. 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 tax for each mobile home shall be determined by the director of tax equalization by placing an evaluation on such mobile home pursuant to standards and guides as determined by the state tax commissioner and applying such evaluation to the preceding year's total mill levies applying to property within the taxing district wherein the mobile home is located. If a mobile home is acquired or moved into this state during the calendar year, and a tax decal has not been previously issued on such mobile home in this state for such year, the tax shall be determined by computing the remaining number of months of the current year to the nearest full month and multiplying such number by one-twelfth of the amount which would be due for the full year. The taxes collected pursuant to the provisions of this chapter shall be disbursed in the same year they are collected and in the same manner as real estate taxes for the preceding year are disbursed.

Approved March 17, 1975

CHAPTER 559

HOUSE BILL NO. 1412
(Gustafson, Lundene)

MOBILE HOME TAX EXEMPTIONS

AN ACT to amend and reenact subsection 1 of section 57-55-10 of the North Dakota Century Code, relating to exemption of mobile homes from taxation.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 57-55-10 of the 1973 Supplement to 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 shall be exempt from taxation under this chapter, provided that any such mobile home shall have displayed on it a tax decal 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 who meets the requirements of section 57-02-21, provided such mobile home is not permanently attached to the land and classified as real property.
 - c. If it is owned and used as his living quarters by a disabled veteran or his unremarried widow 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 his living quarters and who qualifies for the homestead credit provided in section 57-02-08.1, and such mobile home shall be regarded for the purposes of this exemption as the homestead of the person claiming the exemption.

Approved March 18, 1975

CHAPTER 560

HOUSE BILL NO. 1549
(Fleming)

AVIATION GASOLINE TAX

AN ACT to create and enact a new section to chapter 57-56 of the North Dakota Century Code to provide for a separate and additional tax on the sale of aviation gasoline used by aircraft, and providing for the distribution of the proceeds.

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

SECTION 1.) A new section to chapter 57-56 of the North Dakota Century Code is hereby created and enacted to read as follows:

SEPARATE AND ADDITIONAL TAX ON THE SALES OF AVIATION GASOLINE.) In addition to any other tax provided by law, there is hereby levied and imposed a special excise tax on all sales of aviation gasoline used by aircraft at the rate of two percent of the sale price of such aviation gasoline used by aircraft on which a tax is levied by chapters 57-54 or 57-52 and which is refunded under the provisions of chapter 57-50. The proceeds of the additional tax provided for in this section shall be distributed by the aeronautics commission to airports, as determined under the provisions of section 57-56-03.

Approved April 8, 1975 .

CHAPTER 561

SENATE BILL NO. 2394
(Committee on Appropriations)

BUDGET ESTIMATES ON PERSONAL PROPERTY TAX REPLACEMENT

AN ACT requiring the state tax commissioner to submit budget estimates on the personal property tax replacement.

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

SECTION 1. PERSONAL PROPERTY TAX REPLACEMENT - BUDGET ESTIMATES.) The state tax commissioner shall submit to the office of the budget, not later than July fifteenth of each year next preceding the session of the legislative assembly, an estimate of the amount necessary to fund the personal property tax replacement for the next two fiscal years in accordance with the formula set forth in chapter 57-58. Such estimate shall be submitted in the manner prescribed in section 54-44.1-04.

Approved March 14, 1975

CHAPTER 562

HOUSE BILL NO. 1221
(Gackle, J. Murphy, K. Johnson)

**PRIVILEGE TAX ON COAL
CONVERSION FACILITIES**

AN ACT to provide for a privilege tax on certain coal conversion plants, to provide that such tax shall be in lieu of certain other taxes, to provide a credit against such taxes for certain other taxes paid, to provide for the administration and collection of such taxes, to provide powers and duties of the state tax commissioner, to provide for the allocation of revenues collected, and to provide a penalty.

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

SECTION 1. DEFINITIONS.) As used in this Act:

1. "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 Act 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;
2. "Coal conversion facility" means either:
 - a. A plant, other than an electrical generating plant, together with all additions thereto, which processes or converts coal from its natural form into a form substantially different in chemical or physical properties, including but not limited to coal gasification, coal liquefaction, and the manufacture of fertilizer and other products, and which uses or is designed to use over five hundred thousand tons of coal per year; or
 - b. An electrical generating plant, together with all additions thereto, which processes or converts coal from its natural form into electrical power and which has at least one single electrical energy generation unit with a capacity of one hundred twenty thousand kilowatts or more;
3. "Coal gasification" means the production of methane or other commercial gas products from coal;

4. "Commissioner" means the state tax commissioner;
5. "Person" means any individual, estate, trust, corporation, cooperative corporation, or association; and
6. "Synthetic natural gas" means methane and any admixed gaseous products produced by coal gasification.

SECTION 2. IMPOSITION OF TAXES.) Each coal conversion facility shall pay an annual tax for the privilege of producing products of such coal conversion facility. The rate of the tax shall be computed as follows:

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

SECTION 3. MEASUREMENT AND RECORDING OF SYNTHETIC NATURAL GAS OR ELECTRICITY PRODUCED.) The production of synthetic natural gas or electrical power shall be measured at the place of production or generation, and any person subject to the imposition of the taxes provided by this Act shall maintain devices to measure and record the cumulative periodic totals of synthetic natural gas and electrical power generated. Any person subject to the taxes imposed by this Act shall maintain accurate records of the daily and monthly totals of synthetic natural gas and electrical power generated and subject to such taxes. The commissioner shall have access to such records at reasonable times and places.

SECTION 4. PAYMENT OF TAXES ON PLANTS OTHER THAN ELECTRICAL GENERATING PLANTS - WHEN TAXES DUE - WHEN DELINQUENT.)

1. The taxes imposed by this Act on coal conversion facilities other than electrical generating plants shall be levied by the tax commissioner on or before April fifteenth of each year. Each coal conversion facility subject to the taxes imposed by subsections 1 and 3 of section 2 shall annually on or before April first file a report with the commissioner in such form and containing such information as the commissioner may

prescribe and demand. Such report shall state the total amount of gross receipts derived and synthetic natural gas produced by such coal conversion facility during the preceding calendar year. On or before May first of each year, the commissioner shall notify in writing each coal conversion facility subject to the taxes imposed by subsections 1 and 3 of section 2 of the amount of tax imposed. Any person aggrieved by the amount of tax levied against any facility may make application in writing within fifteen days of notification to the commissioner for an abatement hearing which shall be granted not later than fifteen days after the receipt of the application. The commissioner may grant or reject in whole or in part any plea for abatement, and upon conclusion of the hearing shall proceed to make a final levy against the applicant.

2. The taxes levied under subsection 1 of section 2 shall become due and payable to the commissioner on the fifteenth day of June in the year in which such taxes are levied. Such taxes shall become delinquent on the first day of July following, and, if not paid on or before such date, shall be subject to a penalty as provided in section 9.

SECTION 5. PAYMENT OF TAXES ON ELECTRICAL GENERATING PLANTS - WHEN TAXES DUE - WHEN DELINQUENT.) The taxes imposed by this Act on electrical generating plants shall be due within thirty days after the end of each calendar quarter, and, if not received by the thirtieth day, shall become delinquent and shall be collected as herein provided. The commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax, and when such a request is granted, the tax shall not be delinquent until the extended period has expired. The tax commissioner shall require a report to be filed quarterly by each person subject to the taxes imposed by subsection 2 of section 2, in such form as the commissioner shall prescribe, to provide such information as the commissioner deems necessary for the proper administration of this Act.

SECTION 6. PROPERTY CLASSIFIED AND EXEMPTED FROM AD VALOREM TAXES - IN LIEU OF CERTAIN OTHER TAXES - CREDIT FOR CERTAIN OTHER TAXES.) Each coal conversion facility shall be classified as personal property and shall be exempt from all ad valorem taxes except for taxes on the land on which such facility is located. The taxes imposed by this Act shall be in lieu of ad valorem taxes on the property so classified as personal property. The taxes imposed by this Act shall also be in lieu of those taxes imposed by chapters 57-33 and 57-33.1 on cooperative electrical generating plants that qualify as coal conversion facilities as defined in this Act for gross receipts derived from the operation of such plants on or after July 1, 1975. Each cooperative electrical generating plant shall receive a credit against the taxes imposed by this Act for any taxes imposed pursuant to chapters 57-33 and

57-33.1 and payable after July 1, 1975. Such credit shall apply only for such taxes actually paid, and shall be applied against the taxes imposed by this Act in the years in which such payments are made.

SECTION 7. POWERS OF COMMISSIONER.) The commissioner shall have power to require any person subject to the taxes imposed by this Act to furnish any additional information deemed by the commissioner to be necessary for the purpose of correctly computing the amount of the tax, and to examine the books, records, and files of such person, and shall have power to conduct hearings and compel the attendance of witnesses, the production of books, records, and papers of any person, and full authority to make any investigation or hold any inquest deemed necessary to a full and complete disclosure of the true facts as to the amount of production or generation from any coal development plant, and as to the rendition thereof for taxing purposes.

SECTION 8. COMMISSIONER TO COMPUTE TAX ON INCORRECT RETURNS.) The commissioner shall have the power and authority to ascertain and determine whether or not any report or remittances filed with him are correct, and if the person filing such report has made an untrue or incorrect report or remittance, the commissioner shall ascertain the correct amount of taxes due, and give immediate written notice to the person filing the incorrect return or remittance. Any person receiving notice from the commissioner that he has filed an incorrect return or remittance shall remit the tax assessed by the commissioner within fifteen days of such notice. Any person aggrieved by a decision of the tax commissioner may make application in writing within fifteen days of notification for a hearing which shall be granted not later than fifteen days after receipt of the application. The commissioner may accept or reject, in whole or in part, the contentions of the applicant at the hearing, and upon conclusion of the hearing shall proceed to make a final determination of taxes due. Such taxes assessed by the commissioner shall become delinquent five days after the conclusion of the hearing, except in such cases where a person shall appeal such assessment to the district court of Burleigh County, in which case they shall become delinquent five days following final judicial determination.

SECTION 9. PROCEEDINGS AND PENALTY ON DELINQUENCY.) Where the tax provided for in this Act shall become delinquent it shall, as a penalty for such delinquency, bear interest at the rate of nine percent per annum, and shall be collected in the manner hereinafter provided. If any person shall fail to make any report herein required, within the time prescribed by law for such report, it shall be the duty of the commissioner to examine the books, records, and files of such person to ascertain the amount and value of such production to compute the tax thereon as provided herein, and he shall add thereto the cost of such examination, together with any penalties accrued thereon.

SECTION 10. LIEN FOR TAX.) The tax herein provided for shall, at all times, be and constitute a first and paramount lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to the taxpayer, and such lien may be foreclosed in the manner provided in chapter 32-20.

SECTION 11. APPEAL FROM DECISION OF TAX COMMISSIONER.) Any person aggrieved because of any action or decision of the commissioner under the provisions of this Act may appeal therefrom to the district court of Burleigh County.

SECTION 12. RULES AND REGULATIONS - BOND.) The tax commissioner is hereby authorized and empowered to prescribe and promulgate all necessary rules and regulations for the purpose of making and filing of all reports required hereunder and otherwise necessary to the enforcement to this Act, and may, at his option and discretion, require a sufficient bond from any person charged with the making and filing of reports and the payment of the taxes herein imposed, and said bond shall run to the state of North Dakota and shall be conditioned upon the making and filing of reports as required by law or regulation, and for the prompt payment, by the principal therein, of all taxes justly due the state by virtue of the provisions of this Act.

SECTION 13. MONEYS TO BE DEPOSITED WITH STATE TREASURER.) It shall be the duty of the commissioner to immediately deposit with the state treasurer all moneys collected by him under this Act and to accompany each remittance with the necessary information to allow the state treasurer to allocate the moneys received as provided by this Act.

SECTION 14. ALLOCATION OF REVENUE.) The state treasurer, on or before July fifteenth of each year, shall allocate all moneys received pursuant to the provisions of this Act and moneys received for those taxes for which a credit is allowed pursuant to section 6, notwithstanding the provisions of section 57-33.1-08, in the following manner:

1. The first one hundred thousand dollars of annual revenue received from the taxation of each coal conversion facility in each county pursuant to this Act shall be allocated one hundred percent to the county.
2. The second one hundred thousand dollars of annual revenue received from the taxation of each coal conversion facility in each county pursuant to this Act shall be allocated fifty percent to the county and fifty percent to the state general fund.
3. All annual revenue in excess of two hundred thousand dollars but not in excess of five hundred thousand dollars received from the taxation of each coal conversion facility in each county pursuant to this Act shall be allocated twenty-five percent to the county and seventy-five percent to the state general fund.

4. All annual revenue in excess of five hundred thousand dollars but not in excess of one million dollars received from the taxation of each coal conversion facility in each county pursuant to this Act shall be allocated fifteen percent to the county and eighty-five percent to the state general fund.
5. All annual revenue in excess of one million dollars received from the taxation of each coal conversion facility in each county pursuant to this Act shall be allocated ten percent to the county and ninety percent to the state general fund.

SECTION 15. DUTY OF COUNTY TREASURER - ALLOCATION TO POLITICAL SUBDIVISIONS.) Moneys received by counties under the provisions of section 14 shall be apportioned as follows:

1. Fifteen percent of all revenues allocated to any county 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 decennial federal census;
2. Forty percent of the revenues allocated to any county shall be deposited by the county treasurer in the county general fund to be used for general governmental purposes; and
3. Forty-five percent of all revenues allocated to any county shall be apportioned by the county treasurer to school districts within the county on the average daily attendance distribution basis, as certified to him by the county superintendent of schools.

SECTION 16. PENALTY.) Any person intentionally violating any of the provisions of this Act is guilty of a class A misdemeanor.

Not approved or disapproved by the Governor

Filed April 11, 1975

CHAPTER 563

SENATE BILL NO. 2031
(J. Schultz, Shablow)
(From Legislative Council Study)

COAL SEVERANCE TAX AND IMPACT PROGRAM

AN ACT to provide for a severance tax upon all coal mined; to provide procedures for the imposition, collection, and administration of such tax; to provide for the allocation of moneys collected and to provide an impact program for impacted school districts, cities, counties, and other taxing districts; to provide for the creation of a coal development impact office in the office of the governor; to provide for a legislative council coal development review committee to approve or disapprove impact grants; to provide that certain sections of this Act shall be temporary; to provide a penalty; and to provide an appropriation.

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

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

1. Fifty cents per ton of two thousand pounds; and
2. For every three points increase in the index of wholesale prices for all commodities prepared by the United States department of labor, bureau of labor statistics, the amount of the severance tax provided in subsection 1 shall be increased one cent per ton of two thousand pounds. For the purposes of this computation, a fractional point increase shall be disregarded if less than one-half point and treated as one full point if one-half point or more. The state tax commissioner shall determine such increases based upon increases in the wholesale price index from the level of such index as of January 1975 to the level of such index as of the last month of the quarter immediately preceding the quarter for which any taxes are due. At no time shall the amount of the severance tax be reduced. If the wholesale price index declines, the severance tax shall remain at the highest level determined prior to such decline, and shall remain at such level until

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 11. DEFINITIONS.) As used in sections 11 through 15 of this Act, unless the context or subject matter otherwise requires:

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

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

1. Thirty-five percent shall be credited to a special fund in the state treasury for distribution through grants by the coal development impact office to impacted cities, counties, school districts, and other taxing districts, subject to appropriation by the legislative assembly.
2. Thirty percent shall be credited to a special fund in the state treasury to be held in trust to be administered by the board of university and school lands, which shall have full authority to invest such funds

and may consult with the state investment board as provided by law. The income from such trust shall be deposited in the state's general fund. Such trust fund shall be perpetual and held in trust as a replacement for depleted natural resources.

3. Five percent shall be allocated to the coal-producing counties and shall be distributed among such counties in such proportion as the number of tons of coal severed in each county bears to the total number of tons of coal severed in the state during such quarterly period. Such allocations shall be credited to the county general fund.
4. The balance shall be deposited in the state's general fund.

SECTION 13. COAL DEVELOPMENT IMPACT OFFICE - APPOINTMENT OF DIRECTOR.) There is hereby created in the office of the governor a coal development impact office. The director shall be appointed by and shall serve at the pleasure of the governor. The salary of the director shall be set by the governor within the limits of legislative appropriations. The director may employ such other persons as may be necessary and may fix their compensation within the appropriation made for such purpose.

SECTION 14. POWERS AND DUTIES OF COAL DEVELOPMENT IMPACT OFFICE.) The coal development impact office shall:

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

* SECTION 15. LEGISLATIVE COUNCIL COAL DEVELOPMENT REVIEW COMMITTEE.) The legislative council coal development review committee shall consist of seven members of the legislative assembly to be selected by the legislative council. It shall be the duty and responsibility of the committee to review and approve or disapprove, in whole or in part, the decisions on grants made by the coal development impact office. The chairman of the legislative council shall select a chairman of the coal development review committee, and the committee shall be subject to the same rules and provisions for hearings and other procedures as are other legislative council committees.

SECTION 16. APPROPRIATION.) There is hereby appropriated out of any moneys in the special fund created by subsection 1 of section 12 of this Act, not otherwise appropriated, the sum of \$5,000,000.00, or so much thereof as may be necessary, to the coal development impact office for impact grants to impacted cities, counties, school districts, and other taxing districts, for the biennium beginning July 1, 1975, and ending June 30, 1977.

SECTION 17. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000.00, or so much thereof as may be necessary, to the coal development impact office for purposes of administering the impact program provided for in this Act, for the biennium beginning July 1, 1975, and ending June 30, 1977.

SECTION 18. PROVISIONS OF ACT TEMPORARY.) Sections 1 through 15 of this Act shall be effective for the period beginning July 1, 1975, and ending June 30, 1977, and thereafter shall be of no force and effect unless reenacted by the legislative assembly.

Not approved or disapproved by the Governor

Filed April 11, 1975

*NOTE: Section 15 of this Act and that portion of subsection 4 of section 14 providing for approval of impact grants by a Legislative Council committee were vetoed by the Governor. See chapter 588.