

TAXATION

CHAPTER 555

HOUSE BILL NO. 1542
(Representatives R. Anderson, Kent)
(Senator R. Christensen)

FARM HOME PROPERTY TAX EXEMPTION

AN ACT to amend and reenact subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to property tax exemptions for farm homes.

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

SECTION 1. AMENDMENT. Subsection 15 of section 57-02-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15. a. All farm structures, and improvements located on agricultural lands. This subsection shall be construed to exempt farm buildings and improvements only, and shall not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence. Any structure or structures used in connection with a retail or wholesale business other than farming, even though situated on agricultural land, shall not be exempt under this subsection.

b. It is the intent of the legislative assembly that this exemption as applied to a residence shall be strictly construed and interpreted to exempt only a residence which is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption shall not be applied to property which is occupied or used by a person who is not a farmer, ~~for~~ this purpose the term "farm". For purposes of this subdivision:

(1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other

similar operations normally associated with farming and ranching, with not less than fifty percent of his annual net income; ~~and the term "farmer".~~

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

CHAPTER 556

HOUSE BILL NO. 1290
(Hedstrom)

PROPERTY TAX EXEMPTION FOR DISABLED PERSON

AN ACT to create and enact a new subdivision to subsection 20 of section 57-02-08 of the North Dakota Century Code, to allow a homestead credit for any permanently and totally disabled person who is permanently confined to use of a wheelchair; and to amend and reenact subdivision b of subsection 20 of section 57-02-08 of the North Dakota Century Code to increase the income ceiling for disabled veterans to claim the property tax exemption for fixtures, buildings, and improvements.

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

SECTION 1. AMENDMENT. Subdivision b of subsection 20 of section 57-02-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 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~~ the maximum amount of income provided in section 57-02-08.1 for receiving a homestead credit under that section exclusive of any compensation or pension for service-connected disability from the United States government, provided that this exemption shall not exceed ~~eight~~ ten thousand dollars of assessed valuation.

SECTION 2. A new subdivision to subsection 20 of section 57-02-08 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Any permanently and totally disabled person who is permanently confined to use of a wheelchair, or, if deceased, the unremarried surviving spouse of such a person, shall be entitled to a reduction of ten thousand dollars of assessed valuation. If the spouse of such a permanently and totally disabled person owns the homestead or if it is jointly owned by them, the same reduction in assessed valuation shall apply as long as both reside thereon. The provisions of this subdivision shall not reduce the liability for special assessments levied upon the homestead. The phrase "permanently confined to use of a wheelchair" means that the person cannot walk with the assistance of crutches or any other device and will never be able to do so and that a physician selected by the local governing board has so certified.

Approved March 31, 1981

CHAPTER 557

SENATE BILL NO. 2292
(Lashkowitz, Grotberg)

BLIND PERSON'S PROPERTY TAX EXEMPTION

AN ACT to amend and reenact subsection 22 of section 57-02-08 of the North Dakota Century Code, relating to a property tax exemption for homes owned and occupied by blind persons.

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

SECTION 1. AMENDMENT. Subsection 22 of section 57-02-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 11, 1981

CHAPTER 558

SENATE BILL NO. 2375
(Wright)

PERSONAL PROPERTY TAXATION

AN ACT to amend and reenact subsection 25 of section 57-02-08 of the North Dakota Century Code, relating to the exemption of certain personal property; to repeal sections 57-02-17 and 57-02-22 of the North Dakota Century Code, relating to listing of personal property for assessment purposes; to provide an effective date; and to declare an emergency.

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

SECTION 1. AMENDMENT. Subsection 25 of section 57-02-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25. All personal property not required by section 179 of the Constitution of North Dakota to be assessed by the state board of equalization shall become exempt from assessment and taxation in the year 1970 and such property shall not be assessed or taxed for that year or for any year thereafter; provided that this provision shall not apply to any property that is either subjected to a tax which is imposed in lieu of ad valorem taxes or to any particular kind or class of personal property, including mobile homes or house trailers, that is subjected to a tax imposed pursuant to any other provision of law except as specifically provided in this subsection. ~~in addition, this subsection shall not exempt from taxation the personal property of any corporation organized pursuant to the nonprofit laws of any jurisdiction which is not exempt from personal property taxation under any other statute.~~

SECTION 2. REPEAL. Sections 57-02-17 and 57-02-22 of the North Dakota Century Code are hereby repealed.

SECTION 3. EFFECTIVE DATE. The provisions of this Act shall be effective for taxable years beginning on or after January 1, 1981.

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

Approved March 19, 1981

CHAPTER 559

SENATE BILL NO. 2165
(Committee on Finance and Taxation)
(At the request of the Tax Department)

PROPERTY TAX HOMESTEAD EXEMPTION FOR PARAPLEGIC PERSON

AN ACT to amend and reenact subsection 26 of section 57-02-08 of the North Dakota Century Code, relating to property tax homestead exemption for a paraplegic disabled person or surviving spouse.

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

SECTION 1. AMENDMENT. Subsection 26 of section 57-02-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26. 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 from all sources of such person and spouse, or if such person is deceased the income from all sources 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~~ the maximum amount of income provided in section 57-02-08.1 for receiving a homestead credit under that section. 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 March 5, 1981

CHAPTER 560

HOUSE BILL NO. 1446
(E. Pomeroy, Koski)

GEOHERMAL OR WIND ENERGY DEVICE PROPERTY TAX EXEMPTION

AN ACT to amend and reenact subsection 27 of section 57-02-08 of the North Dakota Century Code to provide a property tax exemption for geothermal or wind energy devices.

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

SECTION 1. AMENDMENT. Subsection 27 of section 57-02-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27. Installations, machinery, and equipment of systems ~~which utilize solar energy for the heating or cooling of~~ in new or existing buildings or structures, designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, or to store any of these, by utilization of solar, wind, or geothermal energy, 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~~ the solar, wind, or geothermal energy device is part of a system which uses other means of energy, only that portion of the total system directly attributable to solar, wind, or geothermal energy 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. For the purposes of this subsection, solar or wind energy devices shall have the meaning provided in section 57-38-01.8; geothermal energy device means a system or mechanism or series of mechanisms designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, by a method which extracts or converts the energy naturally occurring beneath the earth's surface in rock structures, water, or steam.

Approved March 16, 1981

CHAPTER 561

SENATE BILL NO. 2428
(Dykshoorn)

PROPERTY TAX EXEMPTIONS

AN ACT to create and enact two new subsections to section 57-02-08 of the North Dakota Century Code, relating to exemption of property from taxation; and to provide an effective date.

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

SECTION 1. Two new subsections to section 57-02-08 of the 1979 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

Property to which title is held by a city pursuant to chapter 40-57 which is leased to an entity described in subsection 8 and used by the entity as provided in subsection 8 or subleased to a public school district for educational purposes, provided that the entity is qualified as an exempt organization under section 501(c)(3) of the United States Internal Revenue Code of 1954 as amended.

Property, but not including property used for residential purposes, owned by an organization described in subsection 9 and leased to a public school district for educational purposes, provided that the property had previously been owned and occupied by the organization for an exempt purpose described in subsection 9 for a period of at least five years.

SECTION 2. EFFECTIVE DATE. This Act shall be effective for property tax years beginning on or after January 1, 1980.

Approved April 1, 1981

CHAPTER 562

SENATE BILL NO. 2217
(Senators Wenstrom, Solberg, Wright)
(Representatives A. Hausauer, Hoffner, Swiontek)

HOMESTEAD TAX CREDIT

AN ACT to amend and reenact section 57-02-08.1 of the North Dakota Century Code, relating to property tax credits for persons sixty-five years of age or older with limited income; and providing for an effective date.

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

SECTION 1. AMENDMENT. Section 57-02-08.1 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. Any person sixty-five years of age or older in the year in which the tax was levied, or any person who is permanently and totally disabled as certified by a physician selected by the local governing body, with an income of ~~nine~~ ten thousand dollars or less per annum from all sources, including the income of any person dependent upon him, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, shall receive a reduction in the assessment on the 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 ~~four~~ five thousand five hundred dollars, a reduction of one hundred percent of the assessed valuation of the person's homestead up to a maximum reduction of four thousand dollars of assessed valuation.

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

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

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

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

SECTION 2. EFFECTIVE DATE. The provisions of this Act shall be effective for assessments of property made on or after January 1, 1981, and for periods of rent for periods beginning on or after January 1, 1981.

Approved April 3, 1981

CHAPTER 563

HOUSE BILL NO. 1565
(Mushik, Boyum, Conmy, Mertens)

HOMESTEAD CREDIT FOR SPECIAL ASSESSMENTS

AN ACT to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to a homestead credit for special assessments for persons sixty-five years of age or older or who are permanently and totally disabled and who have limited income; to provide for an appropriation; and to provide an effective date.

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

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

1. Any person who has qualified for the property tax credit provided for in section 57-02-08.1 may elect to also qualify for an additional homestead credit against that person's homestead for the portion of any special assessment levied by a city under title 40 that becomes due for the same year. This credit shall be granted only at the election of the qualifying person. The person making the election shall do so by filing with the county auditor a claim for the special assessment credit on a form prescribed by the tax commissioner. The claim shall be filed with the county auditor on or before February first of the year in which the special assessment or installment thereof becomes payable.
2. Prior to March 1, 1983, and prior to that same date 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 special assessment credit provided for in subsection 1 was allowed for the preceding year, the amount of credit allowed for the special assessment or installment thereof, the total amount of the special assessment credits due in each special assessment district 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, 1983, and prior to that same date each year thereafter, the sum of the amounts computed by adding the special assessment credits allowed for each homestead in the county for the preceding year.

The county treasurer upon receipt of the payment from the state treasurer shall forthwith apportion and distribute the payment to each special assessment district in the county according to the total credits allowed for each respective special assessment district.

Supplemental certifications by the county auditor and by the state tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed herein to make such corrections as may be necessary because of errors therein.

3. Any credit allowed under subsection 1 of this section, plus interest in the amount of nine percent per year from the time the credit is taken, shall create a lien in favor of the state against the property upon which the special assessment credit is allowed and shall remain a lien upon the property from the time the credit is allowed until the lien is fully satisfied by depositing the amount of the lien in the state general fund. No transfer of title to the homestead because of sale, death or otherwise shall be made without the lien being satisfied. At the time a credit under subsection 1 of this section is allowed, the county auditor shall cause a notice of lien of record to be filed against subject property with the register of deeds.

This lien shall have precedence over all other liens except general tax liens and prior special assessment liens and shall not be divested at any judicial sale. No mistake in the description of the property covered by this lien or in the name of the owner of such property shall defeat the lien if the property can be identified by the description in the special assessment list.

SECTION 2. 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, or so much thereof as may be necessary, to the state treasurer for the reimbursement to the county treasurer for city special assessment tax credits as provided for in this section for the biennium beginning July 1, 1981, and ending June 30, 1983.

SECTION 3. EFFECTIVE DATE. This Act shall be effective for special assessments or installments thereof that become payable on or after January 1, 1982.

Approved April 6, 1981

CHAPTER 564

SENATE BILL NO. 2323
(Senators Moore, Shablow, Wright)
(Representatives Berg, Kingsbury, Riehl)

PROPERTY TAX REFORM

AN ACT relating to the taxation of property at true and full value, the assessment of agricultural land, protection of taxpayers and taxing districts for certain years, and statements of full consideration; to create and enact five new subsections to section 57-02-01 of the North Dakota Century Code, relating to definitions; to amend and reenact sections 57-02-11, 57-02-27, and 57-02-28, subsection 1 of section 57-13-04, and section 57-55-04 of the North Dakota Century Code, relating to the annual assessment of property at true and full value, the basis for the computation of property taxes, the powers and duties of the state board of equalization, and the taxation of mobile homes; to provide a penalty; to provide an effective date; and to declare an emergency.

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

SECTION 1. PROPERTY TO BE VALUED AT TRUE AND FULL VALUE. Beginning with the year 1981, all assessors and boards of equalization shall place the values of all items of taxable property at the true and full value of the property except as otherwise specifically provided by law, and the amount of taxes that may be levied on such property for the year 1981 and each year thereafter shall be limited as provided in this Act. For the purposes of this Act, the term "true and full value" has the same meaning as provided in subsection 4 of section 57-02-01, except that "true and full value" of agricultural lands shall be as determined pursuant to section 2 of this Act.

SECTION 2. VALUATION AND ASSESSMENT OF AGRICULTURAL LANDS. "True and full value" of agricultural lands shall be their agricultural value for the purposes of this Act. Agricultural value shall be defined as the "capitalized average annual gross return". The "annual gross return" shall be determined from crop share rent, cash rent, or a combination thereof reduced by estimated property taxes and crop marketing expenses incurred by farmland owners renting their lands on a cash or crop share basis. For purposes of this section, "annual gross return" for cropland means thirty

percent of annual gross income produced, and "annual gross return" for land used for grazing farm animals means fifty percent of an amount determined to represent the annual gross income potential of the land which would be produced if the land were used for the growing of hay. The "average annual gross return" for each county shall be determined as follows:

1. Take the annual gross returns for the most recent six years immediately preceding the current year for which data is available and discard the highest and lowest annual gross returns of the six.
2. Of the four annual gross return figures remaining, determine the sum of the following:
 - a. Four times the annual gross return figure for the greatest figure; plus,
 - b. Three times the annual gross return figure for the second greatest figure; plus,
 - c. Two times the annual gross return figure for the third greatest figure; plus,
 - d. The annual gross return figure for the smallest figure.
3. Divide the figure arrived at in subsection 2 by ten.

To find the "capitalized average annual gross return" for years after 1983, the average annual gross return shall be capitalized by a five-year average of the gross federal land bank mortgage rate of interest for North Dakota. The five-year average shall be computed from the most recent five years of the six years used in subsection 1 and the gross federal land bank mortgage rate of interest for each year shall be determined in the manner provided in section 20.2032A-4(e)(1) of the United States treasury department regulations for valuing farm real property for federal estate tax purposes, except that the interest rate shall not be adjusted as provided in paragraph (e)(2) of section 20.2032A-4. To find the "capitalized average annual gross return" for 1981, 1982, and 1983, the average annual gross return shall be capitalized at seven and one-half percent.

It shall be the duty of the agricultural economics department of North Dakota state university to compute annually an estimate of the average agricultural value per acre of agricultural lands on a statewide and on a countywide basis and to provide the tax commissioner with this information by December first of each year. Prior to January first of each year the tax commissioner shall provide to each county director of tax equalization this estimate of agricultural value for each county.

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

It shall be the duty of each local assessor to determine the relative value of each assessment parcel within his jurisdiction and to determine the agricultural value of each assessment parcel by adjusting the agricultural value estimate for the assessment district by the relative value of the parcel. Each parcel shall then be assessed according to the provisions in section 7 of this Act. If either a local assessor or a township board of equalization develops an agricultural value for the lands in its assessment district differing substantially from the estimate provided by the county director of tax equalization, written evidence to support the change shall be provided to the county director of tax equalization.

* SECTION 3. PROTECTION OF TAXPAYERS AND TAXING DISTRICTS FOR 1981 AND 1982 - EXCEPTIONS AND LIMITATIONS.

1. Each taxing district may levy in 1981 and 1982 the same amount in dollars as that taxing district levied the prior year plus seven percent.
2. No taxing district may levy more taxes expressed in dollars in 1981 and 1982 than the amounts provided in this section.
3. The amount which may be levied by any taxing district in 1981 and 1982 shall be:
 - a. Reduced by an amount equal to the sum determined by the application of the mill levies for that taxing district to the final assessed valuation of any land or taxable improvements to real property which is removed from the assessment rolls of that taxing district after the prior year but was included in the assessment for the prior year.
 - b. Increased by an amount equal to the sum determined by the application of any mill levies authorized by law but not levied by the governing body of the taxing district for the prior year and any mill levies specifically authorized by the electors of that taxing district but not levied for the prior year to the

* NOTE: This section was amended by section 1 of House Bill No. 1374, chapter 565.

- final assessed valuation of the taxable property in that taxing district.
- c. Increased by an amount equal to the sum determined by the application of the mill levies for that taxing district to the final assessed valuation of any land and taxable improvements to real property which was not taxable in the prior year or was omitted from the assessment rolls for that year but which is included in the assessment for the current year.
 - d. Increased to reflect increased mill levies authorized by the forty-seventh legislative assembly or if the electors of the taxing district authorize additional levies after the effective date of this Act at either a special or regular election as provided by law.
4. The limitation on the amount which may be levied by a taxing district pursuant to this section shall not apply to the Fargo school district or to any school district in which the electors have approved unlimited mill levies as provided by law.
 5. The provisions of this section shall supersede any applicable mill levy limitations otherwise provided by law for 1981 and 1982, but the provisions of this section shall not apply to any of the following:

 - a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
 - b. The one-mill levy for the state medical center authorized by section 10 of article X of the amendments to the Constitution of North Dakota.
 6. The provisions of this section shall not apply to any city which has adopted a home rule charter unless the provisions of the charter specifically provide that state laws related to property tax levy limitations shall apply.

SECTION 4. STATEMENTS OF FULL CONSIDERATION TO BE FILED WITH STATE BOARD OF EQUALIZATION OR REGISTER OF DEEDS - PROCEDURE - SECRECY OF INFORMATION - PENALTY.

1. Any grantee or his authorized agent who presents a deed in the office of the county register of deeds shall certify on the face of the deed any one of the following:

 - a. A statement that he has filed a report of the full consideration paid for the property conveyed with the state board of equalization.

- b. A statement that he has filed a report of the full consideration paid for the property conveyed with the register of deeds.
 - c. A statement of the full consideration paid for the property conveyed.
 - d. A statement designating one of the exemptions in subsection 6 which the grantee believes applies to the transaction.
2. The register of deeds shall not record any deed unless it contains one of the statements required by subsection 1.
3. The register of deeds shall accumulate and at least monthly forward to the state board of equalization a report containing the information filed in his office pursuant to subsection 1.
4. The state board of equalization shall prescribe the necessary forms for the statements and reports to be used in carrying out the purposes of this Act, and the forms will contain a space for the explanation of special circumstances which may have contributed to the amount of the consideration.
5. For purposes of this section, the word "deed" means an instrument or writing whereby any real property or interest therein shall be granted, conveyed, or otherwise transferred to the grantee, purchaser, or other person, except any instrument or writing which transfers any ownership in minerals or interests in minerals underlying land if that ownership has been severed from the ownership of the overlying land surface or any instrument or writing for the easement, lease, or rental of real property or any interest therein.
6. The provisions of this section shall not apply to deeds transferring title to the following types of property, or to deeds relating to the following transactions:
 - a. Property owned or used by public utilities.
 - b. Property classified as personal property.
 - c. A sale where the grantor and the grantee are of the same family or corporate affiliate, if known.
 - d. A sale which resulted as a settlement of an estate.
 - e. All sales to or from a government or governmental agency.

- f. All forced sales, mortgage foreclosures, and tax sales.
 - g. All sales to or from religious, charitable, or nonprofit organizations.
 - h. All sales where there is an indicated change of use by the new owners.
 - i. All transfer of ownership of property for which is given a quitclaim deed.
 - j. Sales of property not assessable by law.
 - k. Agricultural lands of less than eighty acres.
7. The state board of equalization shall guard the secrecy of information contained on statements filed with the board pursuant to subsection 1, and any information contained on statements and any information provided by local officials shall be limited to such data as is necessary to perform their official duties and shall not include the names of any grantors or grantees. Any reports made available to the public must be made in a manner that will not reveal the names of any grantors or grantees. The register of deeds shall guard the secrecy of information contained on reports filed in his office pursuant to subdivision b of subsection 1.
8. Any person who, in the statements provided for in subsection 1, willfully falsifies the consideration paid for the transferred real property or interest therein or who falsely certifies that he has filed a report of full consideration with the state board of equalization is guilty of a class B misdemeanor.

SECTION 5. Five new subsections to section 57-02-01 of the 1979 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

"Agricultural property" means lands which are used for raising agricultural crops or grazing farm animals but shall not include platted lands.

"Residential property" means all property, or portions of property, used by an individual or group of individuals as a dwelling, but not including hotel and motel accommodations required to be licensed under chapter 23-09 nor structures providing living accommodations for four or more separate family units.

"Centrally assessed property" means all property except railroad operating property, which is assessed by the

state board of equalization pursuant to chapters 57-06 and 57-32.

"Railroad property" means the operating property, including franchises, of each railroad operated in this state including any electric or other street or interurban railway.

"Commercial property" means all property, or portions of property, not included in the above-defined classes of property.

SECTION 6. AMENDMENT. Section 57-02-11 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-11. LISTING OF PROPERTY - ASSESSMENT THEREOF. Property shall be listed and assessed as follows:

1. ~~Except--as--provided--in--subsection--6--of--this--section,--all~~ All real property subject to taxation shall be listed and assessed every odd-numbered year with reference to its value, on February first of that year, ~~and--shall--not--be~~ reassessed ~~in--the--following--year,--except--by--order--of--the~~ board ~~of--county--commissioners--or--tax--commissioner.~~ Property ~~assessed--in--odd--numbered--years--shall--be--taxed~~ upon the assessed valuation ~~as--equalized--by--the--state~~ board ~~of--equalization--in--such--year--and--in--the--following~~ year, ~~except--as--otherwise--provided--in--this--chapter,--All~~ real ~~property--becoming--taxable--in--any--intervening--year~~ shall be listed and assessed with reference to ~~its--value~~ on February first in that year.
2. All taxable personal property, except stocks of merchandise, shall be listed and assessed annually with reference to its value on February first of each year. For the purpose of assessment for taxation, each stock of merchandise shall be valued according to the average value for the twelve-month period preceding February first. Each owner shall keep in his place of business a copy of all inventories taken during the preceding year, and all other records and data pertaining to the cost price of such merchandise, and such inventories and other cost data shall be available, at all times, for examination by the assessor or other taxing officers.
3. ~~In--every--even--numbered--year,--at--the--time--of--assessing~~ personal property, ~~the--assessor--also--shall--assess--all--real~~ property ~~that--may--have--become--subject--to--taxation--since~~ the last previous assessment, ~~and--all--buildings--or--other~~ structures of any kind, ~~whether--completed--or--in--process--of~~ completion, ~~and--improvements--on--any--structures--of--over--one~~ hundred ~~dollars--in--value,--the--value--of--which--has--not--been~~ previously added to ~~nor--included--in--the--valuation--of--the~~

~~land-or-lots-on-which-they-have-been-erected,-except-farm buildings-now-exempt-from-taxation-~~

- 4- Whenever after the first day of February and before the first day of April in any year, it is made to appear to the assessor by the oath of the owner that any building, structure, or other improvement, or tangible personal property, which is listed for taxation for the current year has been destroyed or injured by fire, flood, or tornado, he shall investigate the matter and deduct from the valuation of the property of the owner of such destroyed property an amount which in his judgment fairly represents such deduction as should be made. No deduction shall be made on account of damages covered by insurance or damages amounting to less than one hundred dollars.

- 5-~~---In---case---of---an---abatement---by---the---board---of---county commissioners-and-tax-commissioner,-or-by-the-judgment--of a-court-of-competent-jurisdiction,-of-the-valuation-of-any parcel-of-real-estate--as--assessed--in--any--odd-numbered year,-the-valuation--after--such--abatement--shall-be-the assessed--valuation--in--the---even-numbered---year---next following,-except-as-herein-otherwise-provided-~~

- 6-~~---Notwithstanding--the-other-provisions-of-this-section,-the governing-body-of-any-city-or--county--may--by--resolution provide--that--all-real-property-within-the-city-or-county shall-be-listed-and-assessed-annually--with--reference--to its-value-on-February-first-of-each-year---The-assessments of-real-property-assessed-annually--shall-be-equalized--and corrected--annually--in-the-manner-and-subject-to-the-same requirements--as---are---provided---for---equalizing---the assessments--of--real-property-that-is-listed-and-assessed every-odd-numbered-year-~~

SECTION 7. AMENDMENT. Section 57-02-27 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-27. PROPERTY TO BE ASSESSED AT A PERCENTAGE OF FULL VALUE - CLASSIFICATION OF PROPERTY - LIMITATION ON ASSESSMENT OF ANNEXED AGRICULTURAL LANDS. All property subject to taxation based on the value thereof shall be assessed ~~at-its-true-and-full-value-in money-~~ as follows:

1. All residential property to be assessed at nine percent of true and full value. If any property is used for both residential and nonresidential purposes, the assessment shall be prorated accordingly.
2. All agricultural property to be assessed at ten percent of true and full value as determined pursuant to section 2 of this Act.

3. All commercial and railroad property to be assessed at ten percent of true and full value.
4. All centrally assessed property, except railroad property, to be assessed at fourteen percent of true and full value for the 1981 property tax year, thirteen percent of true and full value for the 1982 property tax year, twelve percent of true and full value for the 1983 property tax year, eleven percent of true and full value for the 1984 property tax year, and ten percent of true and full value for all property tax years beginning on or after January 1, 1985.

The resulting amounts shall be known as the assessed valuation. In determining the true and full value of real and personal property, except agricultural property, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall he adopt as a criterion of value the price at which said property would sell at auction, or at forced sale, or in the aggregate with all the property in the town or district, but he shall value each article or description by itself, and at such sum or price as he believes the same to be fairly worth in money. In assessing any tract, or lot of real property, there shall be determined the value of the land, exclusive of improvements, and the value of all taxable improvements and structures thereon, and the aggregate value of the property, including all taxable structures and other improvements, excluding the value of crops growing upon cultivated lands. In valuing any real property upon which there is a coal or other mine, or stone or other quarry, the same shall be valued at such a price as such property, including the mine or quarry, would sell for at a fair voluntary sale for cash. Agricultural lands within the corporate limits of a city, ~~whether or~~ which are not platted, shall constitute agricultural property and be so classified and valued for ad valorem property tax purposes until such lands are put to another use. Such valuation shall be uniform with the assessed-value valuation of adjoining unannexed agricultural land.

SECTION 8. AMENDMENT. Section 57-02-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-28. BASIS FOR COMPUTATION OF TAX. The value of all property subject to a general property tax, not exempted by law nor subject to any gross sales or other lieu tax, to be used in the computation of the tax levied for the payment of any bonded or improvement warrant indebtedness shall be the ~~full-and-true-value~~ assessed valuation thereof, but the net value of such property to be used in the computation of all other taxes levied thereon shall be fifty percent of the ~~true-and-full-value~~ assessed valuation thereof and the resulting amount shall be known as the taxable valuation. Assessors and boards of review shall assess and return all taxable property at its ~~full--and--true-value~~ assessed valuation, and the county auditor, after equalization by the state board of

equalization, shall make the computation necessary to ascertain said fifty percent value.

SECTION 9. AMENDMENT. Subsection 1 of section 57-13-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Equalize the assessment of ~~land~~ real property by adding to the aggregate value thereof in any assessment district in a county and in every county in the state in which the board may believe the valuation too low, such rate percent as will raise the same to its proper relative value as provided by law, and by deducting from the aggregate assessed value thereof, in any assessment district in a county and in every county in the state in which the board may believe the value too high, such percent as will reduce the same to its proper relative value as provided by law. City lots shall be equalized in the manner provided for equalizing other ~~lands~~ real property;

SECTION 10. AMENDMENT. Section 57-55-04 of the 1979 Supplement to 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 based upon its true and full value and by adjusting the valuation of the mobile home by the percentage provided in section 57-02-27 to determine its assessed valuation 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.

SECTION 11. EFFECTIVE DATE. The provisions of this Act shall be effective for assessments of property made on or after January 1, 1981.

SECTION 12. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 30, 1981

CHAPTER 565

HOUSE BILL NO. 1374
(Timm, A. Hausauer)

PROPERTY TAX REFORM CORRECTIONS

AN ACT to amend and reenact section 3 of Senate Bill No. 2323, as approved by the forty-seventh legislative assembly, relating to protection of property taxpayers and taxing districts for 1981 and 1982; to amend and reenact section 57-02-28 of the North Dakota Century Code, as contained in section 8 of Senate Bill No. 2323 as approved by the forty-seventh legislative assembly, sections 57-02-34, 57-12-09, and 57-20-07.1, subdivision m of subsection 1 of section 57-38-01.2, and section 57-38-70 of the North Dakota Century Code, relating to the valuation basis for computation of property taxes, listing of real property for taxation, notice of increased assessment to real estate owners, and mailing of real estate tax statements by county treasurers, and claim for income tax deductions when land is sold or rented to a beginning farmer; to provide that the provisions of this Act are contingent upon the effectiveness of Senate Bill No. 2323, as approved by the forty-seventh legislative assembly; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 3 of Senate Bill No. 2323 as enacted by the forty-seventh legislative assembly is hereby amended and reenacted to read as follows:

SECTION 3. PROTECTION OF TAXPAYERS AND TAXING DISTRICTS FOR 1981 AND 1982 - EXCEPTIONS AND LIMITATIONS.

1. Each taxing district may levy in 1981 and 1982 the same amount in dollars as that taxing district levied the prior year plus seven percent, subject to the adjustments provided in this section.
2. No taxing district may levy more taxes expressed in dollars in 1981 and 1982 than the amounts provided in this section.

3. The amount which may be levied by any taxing district in 1981 and 1982 shall be:
 - a. Reduced by an amount equal to the sum determined by the application of the mill levies for that taxing district to the final assessed valuation of any ~~land ex-taxable-improvements--to--real~~ property which is removed from the assessment rolls of that taxing district after the prior year but was included in the assessment for the prior year.
 - b. Increased by an amount equal to the sum determined by the application of any mill levies authorized by law but not levied by the governing body of the taxing district for the prior year and any mill levies specifically authorized by the electors of that taxing district but not levied for the prior year to the ~~final~~ net assessed valuation of the taxable property in that taxing district.
 - c. Increased by an amount equal to the sum determined by the application of the mill levies for that taxing district to the ~~final~~ net assessed valuation of any ~~land-and~~ taxable ~~improvements-to-real~~ property which was not taxable in the prior year or was omitted from the assessment rolls for that year but which is included in the assessment for the current year.
 - d. Increased to reflect new or increased mill levies authorized by the forty-seventh legislative assembly or if the electors of the taxing district authorize additional levies after the effective date of this Act at either a special or regular election as provided by law.
4. The limitation on the amount which may be levied by a taxing district pursuant to this section shall not apply to the Fargo school district or to any school district in which the electors have approved unlimited mill levies as provided by law.
5. The provisions of this section shall supersede any applicable mill levy limitations otherwise provided by law for 1981 and 1982, but the provisions of this section shall not apply to any of the following:
 - a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
 - b. The one-mill levy for the state medical center authorized by section 10 of article X of the ~~amendments-to-the~~ Constitution of North Dakota.

6. The provisions of this section shall not apply to any city which has adopted a home rule charter unless the provisions of the charter specifically provide that state laws related to property tax levy limitations shall apply.

SECTION 2. AMENDMENT. Section 57-02-28 of the North Dakota Century Code, as contained in section 8 of Senate Bill No. 2323 as approved by the forty-seventh legislative assembly, is hereby amended and reenacted to read as follows:

57-02-28. BASIS FOR COMPUTATION OF TAX. The value of all property subject to a general property tax, not exempted by law nor subject to any gross sales or other lieu tax, to be used in the computation of the tax levied for the payment of any bonded or improvement warrant indebtedness shall be the assessed valuation thereof, but the net value of such property to be used in the computation of all other taxes levied thereon shall be fifty percent of the assessed valuation thereof and the resulting amount shall be known as the taxable or net assessed valuation. Assessors and boards of review shall assess and return all taxable property at its assessed valuation, and the county auditor, after equalization by the state board of equalization, shall make the computation necessary to ascertain said fifty percent value.

SECTION 3. AMENDMENT. Section 57-02-34 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-34. WHEN AND HOW ASSESSMENT MADE. The assessor shall perform the duties required of him during the twelve-month period prior to April first and in the following manner: He shall determine both the true and full value as defined by law and the assessed value of each tract or lot of real property listed for taxation, and shall enter the value--thereof those values in one column separate columns, and the true and full value and assessed value of all improvements and structures taxable thereon in another column separate columns, opposite such description of property, and in another column shall show the total assessed value of the property by adding the totals of the two previous assessed value columns.

SECTION 4. AMENDMENT. Section 57-12-09 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted 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~~ true and full value as defined by law 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.

SECTION 5. AMENDMENT. Section 57-20-07.1 of the 1979 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~~ true and full value as defined by law 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.

* SECTION 6. AMENDMENT. Subdivision m of subsection 1 of section 57-38-01.2 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- m. Reduced by the amount of interest received during that taxable year on a contract for deed on the sale of eighty or more acres [32.37 or more hectares] of agricultural land to a beginning farmer. The contract for deed must extend for not less than fifteen years and have an annual interest rate of not more than six percent. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a notarized statement from the buyer containing a list of the buyer's assets and debts and giving the buyer's net worth, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the ~~current-market~~ true and full value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including his dependents and spouse, if any, for purposes of this subdivision, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing,

* NOTE: Subdivision m of subsection 1 of section 57-38-01.2 was also amended by section 1 of Senate Bill No. 2214, chapter 587.

and other personal belongings shall not be included. This statement shall be filed along with the income tax return. For the purposes of this subdivision, "beginning farmer" means any person who:

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

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 7. AMENDMENT. Section 57-38-70 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-70. CLAIM FOR INCOME TAX DEDUCTION FOR LAND SALE OR RENTAL TO A BEGINNING FARMER. In order for a taxpayer to qualify for the deductions provided in sections 57-38-67 through 57-38-70, the taxpayer shall file with his state income tax return a notarized statement from the beginning farmer who purchased or rented land from him containing a list of the assets, debts, and net worth of the beginning farmer, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the ~~current-market~~ true and full value on the most recent real estate tax statement for that particular piece of property. In order for a taxpayer to qualify for the deduction for rental income provided in section 57-38-69, the taxpayer shall certify on his tax return that any rental arrangement with any other person was not canceled for the purpose of qualifying for this deduction.

SECTION 8. CONTINGENT EFFECTIVENESS OF ACT. The provisions of this Act shall not become effective if for any reason Senate Bill No. 2323 as approved by the forty-seventh legislative assembly does not become effective, nor shall the provisions of this Act continue

in effect if this Act does become effective and any part of Senate Bill No. 2323 as approved by the forty-seventh legislative assembly is disapproved by gubernatorial veto or referral.

SECTION 9. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 6, 1981

CHAPTER 566

SENATE BILL NO. 2172
(Committee on Finance and Taxation)
(At the request of the Tax Department)

TOWNSHIP AND CITY EQUALIZATION BOARDS MEETING DATES

AN ACT to amend and reenact sections 57-09-01 and 57-11-01 of the North Dakota Century Code, relating to meeting dates for township and city equalization boards; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 57-09-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-09-01. MEMBERSHIP OF BOARD - MEETING.

1. The township board of equalization shall consist of the members of the board of supervisors of each township, and the township clerk shall act as clerk of said board. The board shall meet on the second Monday in April in each year at the usual place of meeting of the township board of supervisors.
2. Notwithstanding the provisions of subsection 1, if the same person performs the duties of assessor for two or more townships or cities, the county director of tax equalization may designate the hour and day in the month of April at which the meeting provided for in subsection 1 shall be held for each such township board of equalization, provided that notice of the hour and day shall be published in the official newspaper of the county and posted at the usual place of meeting at least ten days before such meeting.

SECTION 2. AMENDMENT. Section 57-11-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-11-01. MEMBERSHIP OF BOARD - QUORUM - MEETING.

1. The board of equalization of a city shall consist of the members of the governing body, and shall meet at the usual place of meeting of the governing body of the city, on the second Tuesday in April in each year. The executive officer of the governing body shall act as chairman, but in his absence the governing body may elect one of its members to preside. A majority of the board shall constitute a quorum to transact business, and it may adjourn from day to day until its work is completed. In case a quorum is not present at any time, the clerk may adjourn from day to day and publicly announce the time to which the meeting is adjourned.
2. Notwithstanding the provisions of subsection 1, if the same person performs the duties of assessor for two or more cities or townships, the county director of tax equalization may designate the hour and day in the month of April at which the meeting provided for in subsection 1 shall be held for each such city board of equalization, provided that notice of the hour and day shall be published in the official newspaper of the county and posted at the usual place of meeting at least ten days before such meeting.

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

Approved March 5, 1981

CHAPTER 567

HOUSE BILL NO. 1067
(Legislative Council)
(Interim Judiciary "C" Committee)

STATE PROPERTY TAX REFERENCES

AN ACT to amend and reenact section 57-15-02 of the North Dakota Century Code, relating to the determination of tax rates; and to repeal sections 57-15-03 and 57-15-04 of the North Dakota Century Code, relating to the state tax levy.

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

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

57-15-02. DETERMINATION OF RATE. The tax rate of all taxes, ~~except the rate of the state tax and~~ taxes the rate of which is fixed by law, shall be calculated and fixed by the county auditor within the limitations prescribed by statute. If any municipality shall levy a greater amount than the prescribed maximum legal rate of levy will produce, the county auditor shall extend only such amount of tax as the prescribed maximum legal rate of levy will produce. The rate shall be based and computed on the aggregate net assessed valuation of taxable property in the municipality or district levying the tax. The rate of all taxes shall be calculated by the county auditor in mills, tenths, and hundredths of mills.

SECTION 2. REPEAL. Sections 57-15-03 and 57-15-04 of the North Dakota Century Code are hereby repealed.

Approved March 5, 1981

CHAPTER 568

SENATE BILL NO. 2416
(Senator Lee)
(Representative Freborg)

COUNTY ROAD PROGRAM LEVY MAXIMUM

AN ACT to amend and reenact section 57-15-06.3 of the North Dakota Century Code to increase the tax levy for farm to market and federal aid roads and to provide that excess funds may be used for maintenance of such roads if approved by the electors.

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

SECTION 1. AMENDMENT. Section 57-15-06.3 of the 1979 Supplement to 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 - USE OF EXCESS FUNDS. 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~~ fifteen 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 81-769, 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~~ fifteen 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 any 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, or for maintenance of, roads included within the county road program for which the tax levy was originally made. Such ~~paved-or-other-type~~ road surfacing or maintenance may be used undertaken 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.

Approved March 19, 1981

CHAPTER 569

SENATE BILL NO. 2299
(Senator Tweten)
(Representative Lipsiea)

COUNTY ROADS PROGRAM

AN ACT to amend and reenact section 57-15-06.3 of the North Dakota Century Code, relating to a county construction program of farm to market and federal aid roads.

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

SECTION 1. AMENDMENT. Section 57-15-06.3 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.3. COUNTY ROAD PROGRAM ~~INCLUDING OF~~ FARM TO MARKET AND FEDERAL AID ROADS - TAX LEVY.

1. 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~~ the program by the state highway department and the federal highway administration, the board may submit ~~such~~ the 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~~ the program by matching, from the proceeds of ~~such~~ the tax, federal funds available for federal aid, secondary and feeder roads, farm to market roads, and all roads as provided for under ~~Public Law 81-769, or future federal aid highway acts of a similar character.~~ If the majority of the electors voting on the question approved ~~such~~ the program and levy, ~~annually thereafter until such program is completed~~ the board shall levy a tax not in excess of ten mills, ~~which.~~ The levy shall not be subject to the county mill levy limitations, ~~and the.~~ The proceeds of ~~such~~ the tax shall be used, except as ~~herein~~ provided in this section, only for

matching federal aid available for ~~such~~ the 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.

2. The board of county commissioners may change the program if the program has not been completed within ten years of the election establishing the program and the board complies with the requirements specified for changes in the original designation of a county road system under section 24-05-16.

3. 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~~ the proceeds may become available, for providing paved or any other type of road surfacing on or for maintenance of 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.~~

Approved March 25, 1981

CHAPTER 570

HOUSE BILL NO. 1616
(Nagel, O. Hanson, Mushik)

VETERANS' SERVICE OFFICER LEVY

AN ACT to amend and reenact section 57-15-06.4 of the North Dakota Century Code, relating to the levy authorized for county veterans' service officers' salary, traveling, and office expenses.

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

SECTION 1. AMENDMENT. Section 57-15-06.4 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.4. LEVY AUTHORIZED FOR COUNTY VETERANS' SERVICE OFFICERS' SALARY, TRAVELING, AND OFFICE EXPENSES. The county commissioners of each county may levy annually a tax of not to exceed ~~three-fourths-mill~~ one and one-fourths mills on the dollar of the net assessed taxable valuation of the county, to provide a fund, for the payment of the salary, traveling, and office expenses of the county veterans' service officer authorized to be appointed by section 37-14-18. Such levy shall not be limited by the provisions of section 57-15-06.

Approved March 9, 1981

CHAPTER 571

HOUSE BILL NO. 1328
(Wald)

REGIONAL OR COUNTY CORRECTIONS CENTER LEVY

AN ACT to create and enact a new section to chapter 57-15 and a new subdivision to subsection 3 of section 57-15-06 of the North Dakota Century Code, to exempt from county tax limitations and to authorize a county tax for use in constructing, equipping, operating, and maintaining regional or county corrections centers.

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:

LEVY AUTHORIZED FOR REGIONAL OR COUNTY CORRECTIONS CENTERS. The board of county commissioners of each county may levy an annual tax of not to exceed five mills on the net taxable assessed valuation of the county for the purpose of constructing, equipping, operating, and maintaining regional or county corrections centers.

SECTION 2. A new subdivision to subsection 3 of section 57-15-06 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To taxes levied for the purpose of constructing, equipping, operating, and maintaining regional or county corrections centers.

SECTION 3. PURPOSE. It is the purpose of this Act to promote development of regional or county corrections systems that:

1. Are flexible and adaptable to meet future and changing needs.
2. Protect society while providing safe, humane, and constitutional corrections facilities at the county and local level.

3. Are cost-effective in their implementation and effective in controlling the growing costs of corrections facilities.
4. Provide offenders opportunities for becoming productive members of society through community-oriented corrections services and programs.
5. Provide the court system with increased sentencing alternatives and provide legal equality in sentencing offenders.
6. Respond to the immediate and long-term correctional facility and operational needs at the county and local level.
7. Alleviate the correctional burden at the state level.
8. Enable the criminal justice system and the legislative assembly to assess the effectiveness and benefits of regional and county corrections centers.

Approved March 31, 1981

CHAPTER 572

HOUSE BILL NO. 1482
(Representative Hedstrom)
(Senator Cussons)

CITY LEVY LIMITATIONS

AN ACT to amend and reenact section 57-15-08 of the North Dakota Century Code, relating to tax levy limitations in cities.

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

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

57-15-08. TAX LEVY LIMITATIONS IN CITIES. The aggregate amount levied for general city purposes shall not exceed such an amount as will be produced by a levy of ~~thirty-one~~ thirty-eight mills on the net taxable assessed valuation of property in the city, provided that in cities with a population of over five thousand they be permitted to levy an additional one-half of one mill for each additional one thousand population in excess of five thousand, and provided further that the maximum levy for general city purposes shall not exceed ~~thirty-three~~ forty mills, except that cities, when authorized by a majority vote of the electors of such cities upon the submission of such question at a regularly scheduled or special election called for such purpose pursuant to a resolution approved by the governing body of such cities, may increase the maximum mill levy for general city purposes by not more than ~~five~~ ten mills, and that in a city supporting a band or public library an additional levy, not to exceed one mill on the net taxable assessed valuation of property in such city, may be made for a band, and an additional levy not to exceed four mills on the net taxable assessed valuation of property in such city may be made for a public library.

Approved March 11, 1981

CHAPTER 573

SENATE BILL NO. 2400
(Lips)

CITY ADVERTISING LEVY MAXIMUM

AN ACT to amend and reenact section 57-15-10.1 of the North Dakota Century Code, relating to county and city mill levies for advertising purposes.

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

SECTION 1. AMENDMENT. Section 57-15-10.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-10.1. COUNTIES AND CITIES MAY LEVY FOR CERTAIN ADVERTISING PURPOSES. The board of county commissioners of any county, or the governing body of any city may annually levy a tax for the purpose of advertising the resources and opportunities in the county or city as the case may be and promoting the industrial development thereof. ~~Such~~ The tax shall not exceed the amount produced by the levy of one-half mill on a dollar of the net taxable valuation of the county or by the levy of one mill on a dollar of the net taxable valuation of the city as the case may be.

When any county or city makes the levy provided for by this section, the expenditure of the fund shall be under the direction of the governing boards of ~~such~~ the county or city. The levy of ~~such~~ the one-half or one mill authorized by this section shall not be subject to other mill levy limitations prescribed by law.

Approved March 16, 1981

CHAPTER 574

SENATE BILL NO. 2315
(Senators Vosper, Naaden, Thane)
(Representative Olafson)

TOWNSHIP LAW ENFORCEMENT LEVY

AN ACT to create and enact a new section to chapter 57-15 of the North Dakota Century Code to provide a township mill levy for law enforcement.

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

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

TOWNSHIP LEVY FOR LAW ENFORCEMENT - AUTHORIZATION - COOPERATION WITH OTHER POLITICAL SUBDIVISIONS. The electors of an organized township may authorize the levy of an amount not to exceed five mills on the dollar of the net taxable assessed valuation for the purpose of hiring law enforcement personnel. Such authorization shall be granted upon a favorable vote of sixty percent of the electors present and voting on the question at the general election immediately succeeding the annual township meeting, provided the question has been included in the annual meeting notice issued by the township clerk pursuant to section 58-04-01. The mill levy authorized by this section shall not be subject to the mill levy limitation imposed by section 57-15-20. In providing for law enforcement services, the board of supervisors may cooperate with one or more additional townships, with a city, or with the county in accordance with the provisions of section 54-40-08.

Approved March 9, 1981

CHAPTER 575

HOUSE BILL NO. 1447
(Dick, Kent)

TOWNSHIP EQUIPMENT LEVY

AN ACT to create and enact a new section to chapter 57-15 of the North Dakota Century Code, relating to a township mill levy for the purchase and operation of mowing or snow removal equipment.

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

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

TOWNSHIP THREE-MILL LEVY FOR MOWING EQUIPMENT. The electors of each township shall have power at the annual meeting to levy not more than three mills on the dollar of the net taxable assessed valuation of taxable property in the township for the purpose of buying and operating mowing or snow removal equipment. 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.

Approved March 20, 1981

CHAPTER 576

HOUSE BILL NO. 1506
(H. Larson)

UNORGANIZED TOWNSHIP ROAD AND BRIDGE LEVY LIMIT

AN ACT to amend and reenact section 57-15-22 of the North Dakota Century Code to increase the mill levy allowed for roads and bridges in unorganized townships.

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

SECTION 1. AMENDMENT. Section 57-15-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

~~57-15-22. TAX LEVY LIMITATIONS IN UNORGANIZED TOWNSHIPS. Tax levies in unorganized townships shall be limited as follows:~~

The total tax levied by the board of county commissioners in any unorganized township for the construction, maintenance and improvement of any roads and bridges shall not exceed ~~fourteen~~ eighteen mills on the dollar of the net taxable assessed valuation of the township, but this shall not prohibit the levy of general county road and bridge taxes in such unorganized township.

Approved March 11, 1981

CHAPTER 577

SENATE BILL NO. 2324
(Tierney)

UNORGANIZED TOWNSHIP ROAD
AND BRIDGE FUND

AN ACT to amend and reenact section 57-15-22.1 of the North Dakota Century Code, relating to a road and bridge fund in unorganized townships.

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

SECTION 1. AMENDMENT. Section 57-15-22.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-22.1. BOARD OF COUNTY COMMISSIONERS MAY TRANSFER UNEXPENDED BALANCE IN ROAD AND BRIDGE FUND IN UNORGANIZED TOWNSHIPS - LIMITATIONS. The board of county commissioners, by resolution, may transfer any unexpended balance of the revenues produced under section 57-15-22 in any unorganized township to a special road and bridge fund to the credit of such unorganized township. ~~Such special--road--and--bridge--fund--shall--not--exceed--a--sum--which--would--be--produced--by--a--levy--of--six--mills--on--the--net--taxable--valuation--of--any--unorganized--township-~~ Such special road and bridge fund shall not be taken into consideration in determining the budget for the amount to be levied for road and bridge purposes in an unorganized township for the current fiscal year.

Approved March 9, 1981

CHAPTER 578

HOUSE BILL NO. 1478
(Metz)

BUDGET AMENDMENT BY TAXING DISTRICTS

AN ACT to amend and reenact section 57-15-31.1 of the North Dakota Century Code, relating to the amendment of political subdivision budgets.

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

SECTION 1. AMENDMENT. Section 57-15-31.1 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-31.1. DEADLINE DATE FOR AMENDING BUDGETS AND CERTIFYING TAXES. No taxing district shall certify any taxes or amend its current budget and no county auditor shall accept a certification of taxes or amended budget after the tenth day of October of each year if such certification or amendment results in a change in the amount of tax levied. The current budget, except for property taxes, may be amended during the year for any revenues and appropriations not anticipated at the time the budget was prepared.

Approved March 11, 1981

CHAPTER 579

HOUSE BILL NO. 1089
(Conmy)

PUBLIC TRANSPORTATION LEVY

AN ACT to amend and reenact section 57-15-55 of the North Dakota Century Code, authorizing a mill levy to provide for payments under contract for the provision of a public transportation system.

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

SECTION 1. AMENDMENT. Section 57-15-55 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-55. TAX LEVY FOR PUBLIC TRANSPORTATION. The governing body of any city, upon approval by a majority vote of the electors of such city at any citywide election, may annually levy a tax not in excess of ~~one mill~~ five mills on the net taxable assessed valuation of property within such city to provide ~~payments under a contract approved by such governing body with a private contractor~~ payments under a contract approved by such governing body with a private contractor, or by the city itself, which mill levy shall be over and above any mill levy limitations prescribed by law. ~~Such levy shall not be made during any year in which the amount of unexpended funds raised by such levy shall equal or exceed three dollars per capita according to the population of the city as determined at the last federal decennial census.~~

Approved March 3, 1981

CHAPTER 580

HOUSE BILL NO. 1249
(Representatives Black, Gates, A. Olson)
(Senators Holmberg, Stenehjem)

DELINQUENT PROPERTY TAX INTEREST PENALTY

AN ACT to amend and reenact sections 57-24-12 and 57-24-24 of the North Dakota Century Code to provide nine percent annual interest on delinquent property taxes and to delete obsolete references to the hail indemnity tax.

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

* SECTION 1. AMENDMENT. Section 57-24-12 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-24-12. COUNTY AUDITOR TO SELL LANDS AT PUBLIC AUCTION - TIME OF SALE. The sale of lands by the county auditor shall be conducted as follows:

1. On the second Tuesday in December of each year, the county auditor, at his office or the usual place of holding court in the same building, shall sell at public auction the lands, lots, or tracts of real property described in the tax list posted as provided in this chapter. Such sale shall commence at the hour of ten a.m., but may be adjourned from day to day for a period of ten days, whenever adjournment is necessary for the disposal of the lands advertised.
2. Before any tract or parcel of land is offered for sale, the auditor shall announce the total amount of taxes, penalties, ~~interest~~, and cost of advertising the same for sale, and the part representing personal property taxes, if any, extended against such land.
3. The lands, lots, or parcels of land shall be offered for sale by the county auditor, or his deputy, in the order in which they appear in the advertised list, and each tract or lot shall be offered separately and struck off to the bidder who will pay the total amount as announced by the county auditor under the provisions of subsection 2 of

* NOTE: Section 57-24-12 was also amended by section 53 of House Bill No. 1069, chapter 91.

this section, and who will agree to accept the lowest rate of interest from the date of sale on such total amount, such rate in no case to exceed ~~six~~ nine percent per annum.

4. ~~Such lands, lots, or parcels likewise shall be offered for sale and sold for the total amount of hail indemnity taxes, plus accrued penalties and cost of advertising, to the bidder who will pay such total amount and accept the lowest rate of interest on such total amount from the date of sale, such rate in no case to exceed six percent per annum.~~

5. If the sum bid for any tract, lot, or parcel of land is not paid before the sale closes, such tract, lot, or parcel again shall be offered for sale in like manner.

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

57-24-24. FORM OF SUBSEQUENT TAX SALE CERTIFICATE. The county auditor shall execute to the payer of subsequent taxes a subsequent tax sale certificate which shall be substantially in the following form:

SUBSEQUENT TAX SALE CERTIFICATE

----- County, North Dakota

I, -----, county auditor of ----- County in the state of North Dakota, hereby do certify that at the annual tax sale of real estate held on the ----- day of December, 19--, the following described real estate to wit: ----- was sold for the taxes of the year ----- to ----- of ----- for the aggregate sum of ----- (\$-----) dollars, and there was issued to such purchaser tax sale certificate No. ----- and that thereafter, the owner of said tax sale certificate paid subsequent taxes upon said real estate for the year ----- which payment was made on ----- and it is hereby certified that there is due him on account of subsequent taxes for said year, the sum of ----- (\$-----) dollars, together with interest at ~~six~~ nine percent ~~(6%)~~ (9%) per annum from -----, and that unless redemption shall be made from this subsequent tax sale certificate within three (3) years from December -----, 19--, he will be entitled after due notice given, to a tax deed conveying to him the said real estate.

Given under my hand and the seal of the county auditor of ----- County, North Dakota, this ----- day of -----, 19--.

County Auditor of ----- County.

Approved March 31, 1981

CHAPTER 581

SENATE BILL NO. 2144
(Committee on Finance and Taxation)
(At the request of the Tax Department)

TELEPHONE COMPANY TAX AND
MOBILE HOME TAX REFUND

AN ACT to amend and reenact sections 57-34-02, 57-34-03, and 57-55-04.1 of the North Dakota Century Code, relating to reports of telephone companies, computation of taxes assessed against such companies, and to abatement and refund of mobile home taxes; and to repeal sections 57-02-20, 57-02-21, chapter 57-11.1, and subsection 4 of section 57-55-12 of the North Dakota Century Code, relating to taxation and exemption of personal property and to refund of mobile home taxes.

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

SECTION 1. AMENDMENT. Section 57-34-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-02. REPORTS OF TELEPHONE COMPANIES. Each telephone company required to be assessed under the provisions of this chapter, ~~---annually,---and---subject---to---the---provisions---of---section 12.1-11-02, the president, secretary, or other official of such company,~~ shall annually make and file with the tax commissioner, on or before May first, on such form as the tax commissioner may prescribe, a report containing a statement of its telephone operating receipts in this state during the preceding calendar year, the number of stations in service on December thirty-first preceding, the number of miles [kilometers] of telephone line operated in providing telephone service, and such other information as the tax commissioner may require except that any telephone company having thirty telephone stations or less in service on December thirty-first preceding shall not be required to furnish a statement of its telephone operating receipts. Each report shall contain a statement of the number of stations located in each county served and each school district within such counties and the number of stations maintained per mile [1.61 kilometers] of telephone line in this state. Each report shall be signed, subject to the provisions of section 12.1-11-02, by the president, secretary, or other official of the telephone company. Each telephone company

subject to the provisions of this chapter, at the time of submitting its report to the tax commissioner, shall forward a copy of such report to the county auditor of each county in which it maintains a station or stations.

SECTION 2. AMENDMENT. Section 57-34-03 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-03. COMPUTATION OF TAXES BY TAX COMMISSIONER.

1. On or before August first of each year, the tax commissioner shall compute the total tax to be assessed against each telephone company in this state in the following manner:
 - 1- a. Telephone companies maintaining an average of one and twenty-five hundredths telephone stations or less per mile [1.61 kilometers] of telephone line operated in this state shall be taxed at the rate of one-half of one percent of their telephone operating receipts.
 - 2- b. Telephone companies maintaining an average of not less than one and twenty-six hundredths and not more than one and seventy-five hundredths telephone stations per mile [1.61 kilometers] of telephone line operated in this state shall be taxed at the rate of one percent of their operating receipts.
 - 3- c. Telephone companies maintaining an average of not less than one and seventy-six hundredths and not more than two and twenty-five hundredths telephone stations per mile [1.61 kilometers] of telephone line operated in this state shall be taxed at the rate of one and one-half of one percent of their operating receipts.
 - 4- d. Telephone companies maintaining an average of more than two and twenty-five hundredths telephone stations per mile [1.61 kilometers] of telephone line operated in this state shall be taxed at the rate of two percent of their operating receipts.
2. ~~Notwithstanding the provisions of subsections 1 through 4, if the tax due from any telephone company taxed as computed under the provisions of this chapter shall be subsection 1 is less than fifty cents per station maintained in this state or if such company had less than thirty-one stations in service in this state on the preceding December thirty-first, such company shall be subject to a tax of fifty cents per station and further, notwithstanding.~~
3. Notwithstanding the provisions of subsections 1 through 4 and 2, any telephone company having twenty telephone

stations or less in service on December thirty-first preceding the year for which the tax computed under this section is assessed shall be exempt from the provisions of this chapter.

SECTION 3. AMENDMENT. Section 57-55-04.1 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-04.1. PROCEDURE FOR ABATEMENT, REFUND, OR COMPROMISE OF TAX. Any person having any estate, right, title, or interest in or lien upon any mobile home which has been assessed for taxation purposes pursuant to this chapter may apply for abatement, refund, or compromise, as the case may be, pursuant to chapter 57-23. The application shall be made in writing on the form prescribed by the tax commissioner and shall be filed in triplicate with the county auditor of the county where the mobile home was assessed within six months after the tax imposed by this chapter becomes due, or at any time during the taxable year that a mobile home qualifies under the provisions of section 57-55-10. The county auditor shall promptly serve the county director of tax equalization with one copy of the application. The abatement or compromise shall be granted by the county commissioners if the facts upon which the application is based establish that the assessment contains error, or that the value placed upon the mobile home by the county director of tax equalization was excessive, or that the mobile home is exempt from taxation pursuant to section 57-55-10. The decision of the county commissioners may be reviewed and considered by the tax appeals board pursuant to chapter 57-23.1.

* SECTION 4. REPEAL. Section 57-02-20, chapter 57-11.1, and subsection 4 of section 57-55-12 of the North Dakota Century Code and section 57-02-21 of the 1979 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 5, 1981

* NOTE: Section 57-02-20 was amended by section 48 of Senate Bill No. 1069, chapter 91.

CHAPTER 582

SENATE BILL NO. 2187
(Committee on Finance and Taxation)
(At the request of the Tax Department)

TOBACCO PRODUCTS TAX AND
MIXED DRINK USE TAX

AN ACT to amend and reenact section 57-36-10 and subsection 2 of section 57-36-11 of the North Dakota Century Code, relating to discounts for purchases of tobacco stamps and fees for county auditors for tobacco products tax meter settings; and to repeal subsection 7 of section 57-40.2-04 of the North Dakota Century Code, relating to use tax exemption for mixed drinks.

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

SECTION 1. AMENDMENT. Section 57-36-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-10. STAMPS MAY BE PURCHASED AT DISCOUNT. Any licensed distributor located within or without this state may purchase stamps at a discount of ~~three~~ five percent of the face value thereof, and the tax commissioner may allow such discount in the settlement of the account of such wholesale distributor upon the payment to him of any moneys which may be or become due to the state by reason of the sale, delivery, or consignment to such distributor of such stamps.

SECTION 2. AMENDMENT. Subsection 2 of section 57-36-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The tax commissioner may designate the county auditor of any county of this state as his representative for the setting of tax meter machines for any particular distributor and for the collection of the cigarette tax due upon each such setting. Any county auditor so designated shall transmit each amount of tax collected and report each meter machine setting to the tax commissioner on or before the next business day, provided that a business day shall not include Saturday; he shall perform such duties in accordance with the procedure prescribed by the tax commissioner. The duties of the county auditor pursuant to this section shall be within the coverage of his official bond. Any county auditor when designated by

the tax commissioner pursuant to this section shall receive from the distributor for his services for setting a meter machine a fee of ~~two~~ five dollars for each meter setting and all such fees received by the county auditor shall be payable to him personally for his services and shall not be credited to any county fund or to any other public fund.

SECTION 3. REPEAL. Subsection 7 of section 57-40.2-04 of the 1979 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 31, 1981

CHAPTER 583

HOUSE BILL NO. 1198
(Committee on Finance and Taxation)
(At the request of the Tax Department)

PENALTIES AND INTEREST ON UNPAID TAXES

AN ACT to amend and reenact subsection 3 of section 57-36-26, subsection 5 of section 57-38-34, and sections 57-38-35.1, 57-38-36, 57-51-10, 57-52-12, 57-54-11, 57-60-09, 57-61-05 of the North Dakota Century Code, relating to interest imposed on unpaid income taxes, interest paid on income tax refunds, and penalties and interest imposed for failure to file returns or pay taxes in connection with tobacco products, oil and gas production, special fuels, motor vehicle fuels, coal conversion facilities, and the severance of coal; and to provide for an effective date.

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

SECTION 1. AMENDMENT. Subsection 3 of section 57-36-26 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Any person failing to file any prescribed forms of return or to pay any tax within the time required by this section shall be subject to a penalty of ~~three percent of the amount of tax due~~ five dollars or a sum equal to five percent of the tax due, whichever is greater, plus one percent of such tax for each month of delay or fraction thereof excepting the month within which such return was required to be filed or such tax became due. The tax commissioner, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.

SECTION 2. AMENDMENT. Subsection 5 of section 57-38-34 of the 1979 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~~ twelve 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 3. AMENDMENT. Section 57-38-35.1 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 4. AMENDMENT. Section 57-38-36 of the 1979 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 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~~ twelve 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 5. AMENDMENT. Section 57-51-10 of the 1979 Supplement to 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~~ there is hereby imposed a penalty of five dollars, or a sum equal to five percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction thereof during which such delinquency continues, excepting the month within which such tax became due, which 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~~ amount of any penalties accrued thereon. The tax commissioner, in his discretion for good cause shown, may waive the penalty or the interest provided by this section.

SECTION 6. AMENDMENT. Section 57-52-12 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-12. REFUSAL OR FAILURE TO FILE RETURN OR PAY TAX WHEN DUE - DEFICIENCIES - PENALTIES. In case any special fuel dealer refuses or fails to file a return required by this chapter within the time prescribed by section 57-52-10, there is hereby imposed a penalty of five dollars or a sum equal to ~~two five~~ percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction thereof during which such refusal or failure continues, excepting the month within which such tax became due. The state tax commissioner, in his discretion for good cause shown, may waive the penalty or the interest provided by this section. Where a special fuel dealer files a return but fails to pay in whole or in part the tax due hereunder, there shall be added to the amount due and unpaid, interest at the rate of one percent per month or fraction thereof from the date such tax was due to the date of payment in full thereof. If it be determined by the state tax commissioner that the tax reported by any special fuel dealer is deficient, he shall proceed to assess the deficiency on the basis of information available to him and there shall be added to this deficiency interest at the rate of one percent per month or fraction thereof from the date the return was due.

SECTION 7. AMENDMENT. Section 57-54-11 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-11. FAILURE TO FILE REPORT - PENALTY - REVOCATION OF LICENSE - EXCUSE FOR DELAY. If the holder of a license to sell motor fuel at any time shall either refuse or neglect to file the report required to be filed, or pay the full amount of the tax as required by this chapter, there is hereby imposed a penalty of five dollars, or a sum equal to ~~two~~ five percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction thereof during which such refusal or failure continues, excepting the month within which such report was required to be filed or such tax became due, and the state tax commissioner forthwith may revoke such license and, if so, shall notify the holder thereof promptly by a notice sent by registered or certified mail to the post-office address of such holder as the same appears in the state tax commissioner's records. However, if such report is filed and the tax paid within ten days after the date it becomes due and if it is established under oath that the delay was due to accident or justifiable oversight, then the state tax commissioner may continue such license in full force and effect. The state tax commissioner, in his discretion for good cause shown, may waive all or any part of the penalty or the interest provided by this section.

SECTION 8. AMENDMENT. Section 57-60-09 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-09. 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 nine percent per annum, and~~ there is hereby imposed a penalty of five dollars, or a sum equal to five percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction thereof during which such delinquency continues, excepting the month within which such tax became due, which 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~~ amount of any penalties accrued thereon. The tax commissioner, in his discretion for good cause shown, may waive the penalty or the interest provided by this section.

* SECTION 9. AMENDMENT. Section 57-61-05 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 57-61-05 was also amended by section 2 of Senate Bill No. 2180, chapter 619.

57-61-05. PENALTY ON DELINQUENCY - FAILURE TO FILE REPORTS RETURNS. Where the severance tax provided for in this chapter shall become delinquent, ~~it shall, as a penalty for such delinquency, bear interest at the rate of eight percent per annum~~ there is hereby imposed a penalty of five dollars, or a sum equal to five percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction thereof during which such delinquency continues, excepting the month within which such tax became due. The tax commissioner, in his discretion for good cause shown, may waive the penalty or the interest provided by this section. If the quarterly ~~report~~ return 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~~ return 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 10. EFFECTIVE DATE. The provisions of this Act shall be applicable to all taxable periods beginning on or after January 1, 1981.

Approved March 11, 1981

CHAPTER 584

SENATE BILL NO. 2186
(Committee on Finance and Taxation)
(At the request of the Tax Department)

ESTATE NOTICE AND TAX REQUIREMENTS

AN ACT to amend and reenact subsection 1 of section 30.1-14-07, subsection 2 of section 30.1-15-14, subsection 2 of section 57-37.1-08, and section 57-37.1-13 of the North Dakota Century Code, relating to notices to the tax commissioner of appointment, proceedings in probate, notices pertaining to estates and given to the tax commissioner by financial institutions and insurance companies, and the distribution of minimum estate tax payments; and to repeal section 57-37.1-05 of the North Dakota Century Code, relating to property previously subject to estate taxes.

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

SECTION 1. AMENDMENT. Subsection 1 of section 30.1-14-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Upon receipt of an application for informal appointment of a personal representative other than a special administrator as provided in section 30.1-17-14, if at least one hundred twenty hours have elapsed since the decedent's death, the court, after making the findings required by section 30.1-14-08, shall appoint the applicant subject to qualification and acceptance; provided, that if the decedent was a nonresident, the court shall delay the order of appointment until thirty days have elapsed since death unless the personal representative appointed at the decedent's domicile is the applicant, or unless the decedent's will directs that his estate be subject to the laws of this state. ~~A copy of the order of appointment shall be forwarded immediately by the court to the tax commissioner.~~

SECTION 2. AMENDMENT. Subsection 2 of section 30.1-15-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. After notice to interested persons, including all persons interested in the administration of the estate as successors under the applicable assumption concerning testacy, any previously appointed personal representative, and any person having or claiming priority for appointment as personal representative, the court shall determine who is entitled to appointment under section 30.1-13-03, make a proper appointment and, if appropriate, terminate any prior appointment found to have been improper as provided in cases of removal under section 30.1-17-11. ~~A copy of the order of appointment shall be immediately forwarded by the court to the tax commissioner.~~

SECTION 3. AMENDMENT. Subsection 2 of section 57-37.1-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 the 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. Any distributive share in an amount less than ten dollars, and which has been calculated by the state treasurer pursuant to the provisions of this section, shall be paid to the state general fund and shall not be distributed as otherwise provided for in this section.

* SECTION 4. AMENDMENT. Section 57-37.1-13 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

* NOTE: Subsection 1 of section 57-37.1-13 was also amended by section 2 of Senate Bill No. 2431, chapter 585.

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

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, if in excess of five thousand dollars, 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.

SECTION 5. REPEAL. Section 57-37.1-05 of the 1979 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 6, 1981

CHAPTER 585

SENATE BILL NO. 2431
(Redlin)

SAFE DEPOSIT BOX ACCESS

AN ACT to amend and reenact section 57-37.1-12 and subsection 1 of section 57-37.1-13 of the North Dakota Century Code, relating to access to the safe deposit box of a decedent.

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

SECTION 1. AMENDMENT. Section 57-37.1-12 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37.1-12. DUTIES OF DEPOSITORIES - INVENTORY OF CONTENTS OF SAFE DEPOSIT BOX REQUIRED. No safe deposit company, trust company, corporation, bank, or other institution or person engaged in the business of renting safe deposit boxes or other receptacles of similar character shall rent any such box or receptacle without first procuring from each person given access thereto an agreement in writing to the effect that upon the death of any person having the right of access to such box or receptacle, notice of such death will be given to such safe depository, bailee, or lessor before seeking access to such box or receptacle. A safe deposit company, trust company, corporation, bank, or other institution or person having the possession, control, custody, or partial custody of any safe deposit box or similar receptacle shall not permit access to such box or receptacle after the death of any person who at the time of his death had the right or privilege of access thereto, by any other person acting as principal, deputy, agent, personal representative, or tenant of such deceased person, until a complete inventory of the entire contents of the safe deposit box has been prepared by a person entitled to access to the box in the presence of an officer or other agent of the lessor of the box. The inventory so prepared shall be filed with the state tax commissioner by the lessor of the box within thirty days from the date of its preparation. After the lessor of the box has complied with the provisions of this section, it shall not limit access to the safe deposit box or similar receptacle by persons entitled to access thereto, and it shall be released of all liability to those persons and to the state of North Dakota for any assets, documents, or

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

* SECTION 2. AMENDMENT. Subsection 1 of section 57-37.1-13 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 31, 1981

* NOTE: Section 57-37.1-13 was also amended by section 4 of Senate Bill No. 2186, chapter 584.

CHAPTER 586

HOUSE BILL NO. 1177
(Committee on Finance and Taxation)
(At the request of the Tax Department)

TAXABLE INCOME COMPUTATION

AN ACT to create and enact two new subdivisions to subsection 21 of section 57-38-01 of the North Dakota Century Code, relating to crude oil windfall profit tax deduction for individuals, estates, trusts, and corporations, and to installment sales; and to declare an emergency.

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

SECTION 1. Two new subdivisions to subsection 21 of section 57-38-01 of the 1979 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

As to individuals, estates, trusts, and corporations, the crude oil windfall profit tax enacted as Public Law No. 96-223 [94 Stat. 229] shall be allowable as a deduction in computing taxable income for the first taxable year only, beginning on or after January 1, 1980; provided that the deduction for a corporation shall not exceed one million dollars.

As to individuals, estates, trusts, and corporations, the provisions of the Installment Sales Revision Act of 1980 enacted as Public Law No. 96-471 are hereby retroactively incorporated for the purposes of this chapter and for the purpose of computing taxable income for the first taxable year only, beginning on or after January 1, 1980.

SECTION 2. EMERGENCY. The provisions of this Act are hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 1, 1981

CHAPTER 587

SENATE BILL NO. 2214
(Senators Iszler, Dotzenrod)
(Representatives Nicholas, E. Pomeroy)

BEGINNING FARMER TAX INCENTIVES

AN ACT to amend and reenact subdivision m of subsection 1 of section 57-38-01.2, subsections 2 and 3 of section 57-38-67, and sections 57-38-68 and 57-38-69 of the North Dakota Century Code, relating to the adjustments to taxable income for individuals and fiduciaries derived from sales of land to beginning farmers, the definition of a beginning farmer and landowner, the income tax deduction for land sales to beginning farmers, and providing that rent received from beginning farmers is exempt from income tax; and to provide an effective date.

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

* SECTION 1. AMENDMENT. Subdivision m of subsection 1 of section 57-38-01.2 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- m. Reduced by the amount of interest received during that taxable year on a contract for deed on the sale of eighty or more acres [32.37 or more hectares] of agricultural land to a beginning farmer. The contract for deed must extend for not less than fifteen years and have an annual interest rate ~~of not more than six percent~~ equal to or less than the minimum rate allowed by the Internal Revenue Service before interest is imputed. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a notarized statement from the buyer containing a list of the buyer's assets and debts and giving the buyer's net worth, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including his dependents and spouse, if any, for

- * NOTE: Subdivision m of subsection 1 of section 57-38-01.2 was also amended by section 6 of House Bill No. 1374, chapter 565.

purposes of this subdivision, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings shall not be included. This statement shall be filed along with the income tax return. For the purposes of this subdivision, "beginning farmer" means any person who:

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

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. AMENDMENT. Subsections 2 and 3 of section 57-38-67 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Beginning farmer" means any person who:

- a. Is a resident of this state.
- b. Receives more than half his annual income from farming, unless the person initially commences farming during the tax year for which a deduction will be claimed under sections 57-38-67 through 57-38-70.
- c. Intends to use any farmland that he wishes to purchase or rent for agricultural purposes.
- d. Has had adequate training, by experience or education, in the type of farming operation which he wishes to begin on the purchased or rented land referred to in subdivision c.

- e. Has, including his dependents and spouse, if any, a net worth of less than ~~fifty~~ one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.
3. "Landowner" means any ~~person~~ person individual, partnership, trust, or estate owning land in North Dakota, except that any ~~person--who~~ individual, partnership, trust, or estate that acquires such land for the purpose of obtaining the income tax deduction provided for in sections 57-38-67 through 57-38-70 shall not be deemed to be a landowner.

SECTION 3. AMENDMENT. Section 57-38-68 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-68. INCOME TAX DEDUCTION FOR LAND SALE TO BEGINNING FARMERS. Any landowner who sells land consisting of twenty acres [8.09 hectares] or more to a beginning farmer shall be entitled to a reduction in his taxable income ~~for--the--year--in--which--the--sale~~ occurred in an amount equal to ~~fifty-percent-of-any~~ all income realized and otherwise subject to state income taxes after consideration of any capital gains treatment, ~~up-to-a-maximum-of~~ fifty-thousand-dollars.

SECTION 4. AMENDMENT. Section 57-38-69 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-69. RENT FROM BEGINNING FARMERS EXEMPT FROM INCOME TAX. ~~Fifty-percent-of-any~~ All income received and otherwise subject to taxation for state income tax purposes resulting from the rental of any land consisting of twenty acres [8.09 hectares] or more by a landowner to a beginning farmer under any agreement providing for a lease for at least three years shall be exempt from income taxes provided that no landowner may exclude more than twenty-five thousand dollars pursuant to this section in any tax year nor may any landlord claim this deduction for agreements with more than one beginning farmer for rentals on the same tract or parcel of land.

SECTION 5. EFFECTIVE DATE. This Act shall be effective after December 31, 1980.

Approved March 30, 1981

CHAPTER 588

HOUSE BILL NO. 1095
(A. Olson, Berg)

BEGINNING BUSINESSMAN TAX INCENTIVES

AN ACT to create and enact a new subdivision to subsection 1 of section 57-38-01.2 of the North Dakota Century Code, relating to a reduction in taxable income for interest received on contracts for the sale of property to beginning businessmen; to provide for income tax deductions as incentives for sales of businesses to beginning businessmen; and to provide an effective date.

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

SECTION 1. A new subdivision to subsection 1 of section 57-38-01.2 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Reduced by the amount of interest received during that taxable year on a contract on the sale of any land, buildings, improvements, and equipment associated with the land, buildings, or improvements, used or useful in connection with a revenue-producing enterprise to a beginning businessman, excluding beginning farmers as defined in subdivision m of this subsection. The contract must extend for not less than ten years and have an annual interest rate equal to the minimum rate allowed by the internal revenue service to meet gift tax requirements. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a notarized statement from the buyer containing a list of the buyer's assets and debts and giving the buyer's net worth, together with any other information required by the state tax commissioner. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including that person's dependents and spouse, if any, the value of their equity in their principal

residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings is not to be included. This statement is to be filed along with the income tax return. For the purposes of this subdivision, "beginning businessman", excluding beginning farmers as defined in subdivision m of this subsection, means any person who:

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

SECTION 2. DEFINITIONS APPLICABLE TO SECTIONS 2 THROUGH 5. As used in sections 2 through 5 of this Act, unless the context otherwise requires:

1. "Beginning businessman", excluding beginning farmers as defined in subdivision m of subsection 1 of section 57-38-01.2, means any person who:
 - a. Is a resident of this state.
 - b. Receives more than one-half his annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which a deduction will be claimed under sections 2 through 5.
 - c. Intends to use any revenue-producing enterprise that he wishes to purchase or rent for business purposes.
 - d. Has had adequate training, by experience or education, in the type of revenue-producing enterprise which he wishes to begin.
 - e. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less

than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

2. "Businessman" means any person owning a revenue-producing enterprise in North Dakota, except that any person who acquires such an enterprise for the purpose of obtaining the income tax deduction provided for in sections 2 through 5 is not deemed to be a businessman.
3. "Revenue-producing enterprise" means any real property, buildings, and improvements on the property or to the buildings, and any equipment located on the property or in the buildings, or any personal property used or useful in connection with a revenue-producing enterprise engaged in any industry or business not prohibited by the Constitution of North Dakota or the laws of this state.

SECTION 3. INCOME TAX DEDUCTION FOR REVENUE-PRODUCING ENTERPRISE SALE TO BEGINNING BUSINESSMAN. Any businessman who sells a revenue-producing enterprise to a beginning businessman is entitled to a reduction in the businessman's taxable income for the year in which the sale occurred in an amount equal to all income realized and otherwise subject to state income taxes after consideration of any capital gains treatment. In the case of a contract the year in which the sale occurred, for purposes of this section, means the year the contract is entered into by the businessman and the beginning businessman, regardless of the amount of payment, if any, that is made in that year.

SECTION 4. RENT FROM BEGINNING BUSINESSMAN EXEMPT FROM INCOME TAX. All income received and otherwise subject to taxation for state income tax purposes resulting from the rental of any revenue-producing enterprise by a businessman to a beginning businessman under any agreement providing for a lease for at least three years is exempt from income taxes provided that no businessman may exclude more than twenty-five thousand dollars pursuant to this section in any tax year nor may any businessman claim this deduction for agreements with more than one beginning businessman for rentals of the same revenue-producing enterprise.

SECTION 5. CLAIM FOR INCOME TAX DEDUCTION FOR REVENUE-PRODUCING ENTERPRISE SALE OR RENTAL TO A BEGINNING BUSINESSMAN. To qualify for the deduction provided in sections 2 through 5, the taxpayer shall file with the taxpayer's state income tax return a notarized statement from the beginning businessman who purchased or rented the revenue-producing enterprise containing a list of the assets, debts, and net worth of the beginning businessman, together with any other information required by the state tax commissioner. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount

listed as the current market value on the most recent real estate tax statement for that particular piece of property. To qualify for the deduction for rental income provided in section 4, the taxpayer shall certify on the taxpayer's tax return that any rental arrangement with any other person was not canceled for the purpose of qualifying for this deduction.

SECTION 6. EFFECTIVE DATE. The provisions of this Act shall be effective for taxable years beginning on or after January 1, 1981.

Approved March 31, 1981

CHAPTER 589

HOUSE BILL NO. 1284

(A. Olson, Gunderson, Nagel, Olafson, Timm)

INTEREST INCOME TAX ADJUSTMENT

AN ACT to create a new subdivision to subsection 1 of section 57-38-01.2 of the North Dakota Century Code to provide a reduction in the taxable income for a limited amount of interest income received by an individual; and to provide an effective date.

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

SECTION 1. A new subdivision to subsection 1 of section 57-38-01.2 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Reduced by any amount, up to a maximum of two hundred dollars received by any person or four hundred dollars if a joint return is filed, as interest earned from a financial institution located in this state. For purposes of this subdivision, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions.

SECTION 2. EFFECTIVE DATE. This Act shall be effective for taxable years beginning on or after January 1, 1981.

Approved April 6, 1981

CHAPTER 590

HOUSE BILL NO. 1562
(A. Hausauer)

SUBCHAPTER S ELECTION RECOGNITION

AN ACT to amend and reenact section 57-38-01.4 of the North Dakota Century Code, relating to recognition of subchapter S election; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 57-38-01.4 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. For the purposes of this chapter, any person as defined in section 57-38-01 and required to file a North Dakota income tax return who makes an election under subchapter S of the Internal Revenue Code of 1954, as amended, for federal income tax purposes shall have such status recognized and such person's taxable income shall be computed as provided in subchapter S of the Internal Revenue Code of 1954, as amended, with the adjustments allowed by this chapter or other provisions of law.
2. Notwithstanding the provisions of subsection 1, any person therein described who makes an election under subchapter S of the Internal Revenue Code of 1954, as amended, may elect to have such status not recognized for purposes of filing returns pursuant to this chapter. In such case, the taxable income of the corporation shall be reported as is the taxable income of other corporations that are subject to the provisions of this chapter. The taxable income of each shareholder of such corporation shall be reduced by the amount of federal income taxes paid by the shareholder on that part of the income or gain of the corporation received by the shareholder when received as a dividend pursuant to subdivision i of subsection 1 of section 57-38-01.2 or subdivision g of subsection 1 of section 57-38-01.3. When no election is made for state

income tax purposes, both the shareholders and the corporation shall make adjustments, increases, or decreases to federal taxable income so that the state taxable income figure is determined as though no election had been made for either state or federal income tax filing purposes.

3. Those persons who were required for taxable years beginning prior to January 1, 1969, to file as subchapter S taxpayers under subsection 1 may elect for taxable years beginning on or after January 1, 1969, to have such status not recognized for purposes of filing returns pursuant to this chapter, provided such election is made, on a form prescribed by the tax commissioner, prior to the end of the taxable year that begins in 1969.
4. If an election to have such subchapter S status recognized or not recognized is made under subsection 2 or 3, a termination or revocation of such status or a subsequent election relating thereto shall be made only in accordance with the conditions and requirements prescribed for terminations, revocations and subsequent elections under subchapter S of the Internal Revenue Code of 1954, as amended.
5. The distributed and undistributed taxable income of an electing small business corporation for federal and state income tax purposes derived from or connected with sources in this state does constitute income derived from sources within this state for a nonresident person who is a shareholder of such a corporation, and a net operating loss of such corporation derived from or connected with sources in this state does constitute a loss or deduction connected with sources in this state for such a nonresident individual.

SECTION 2. EFFECTIVE DATE. The provisions of this Act shall be effective for all taxable years still open to audit under the provisions of section 57-38-38 as of January 1, 1981, and all taxable years thereafter.

Approved March 19, 1981

CHAPTER 591

HOUSE BILL NO. 1307
(Representatives Wald, Conmy, Unhjem)
(Senators Nething, Tennefos, Tierney)

INCOME TAX CHARITABLE CONTRIBUTION CREDIT INCREASED

AN ACT to amend and reenact subsections 1 and 2 of section 57-38-01.7 of the North Dakota Century Code, increasing the amounts allowable as an income tax credit for charitable contributions.

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

SECTION 1. AMENDMENT. Subsections 1 and 2 of section 57-38-01.7 of the 1979 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided ~~herein~~ in this subsection, as a credit against the income tax imposed by this chapter for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by ~~such~~ the taxpayer during ~~such~~ the year to nonprofit private institutions of higher education located within the state ~~of North Dakota~~ or to the North Dakota independent college fund.
 - a. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this subsection for any taxable year shall not exceed forty percent of ~~such~~ the taxpayer's total income tax under this chapter for ~~such~~ the year, or ~~one~~ two hundred fifty dollars, whichever is less.
 - b. In the case of a corporation, the amount allowable as a credit under this subsection for any taxable year shall not exceed ~~ten~~ twenty percent of ~~such~~ the corporation's total income tax under this chapter for ~~such~~ the year, or ~~one~~ two thousand five hundred dollars, whichever is less.
2. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided ~~herein~~ in

this subsection, as a credit against the income tax imposed by this chapter for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by ~~such~~ the taxpayer during ~~such~~ the year directly to nonprofit private institutions of secondary education, located within the state of ~~ef--North~~ Dakota.

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

Approved March 20, 1981

CHAPTER 592

HOUSE BILL NO. 1118
(Koski)ALTERNATIVE ENERGY DEVICE
INCOME TAX CREDIT

AN ACT to amend and reenact section 57-38-01.8 of the North Dakota Century Code, relating to income tax credits for installation of alternate energy devices; and to provide for an effective date.

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

SECTION 1. AMENDMENT. Section 57-38-01.8 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-01.8. INCOME TAX CREDIT FOR INSTALLATION OF GEOTHERMAL, SOLAR, OR WIND ENERGY DEVICES.

1. Any taxpayer filing a North Dakota income tax return pursuant to the provisions of this chapter may claim a credit for the cost of a geothermal, solar, or wind energy device installed in a building or on ~~the premises of~~ a building property owned by the taxpayer in North Dakota. The credit provided in this section shall be in an amount equal to five percent per year for ~~two~~ three years of the actual cost of acquisition and installation of the geothermal, solar, or wind energy device and shall be subtracted from any income tax liability of the taxpayer as determined pursuant to the provisions of this chapter.
2. For the purposes of this section, ~~"solar"~~
 - a. "Geothermal energy device" means a system or mechanism or series of mechanisms designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, by a method which extracts or converts the energy naturally occurring beneath the earth's surface in rock structures, water, or steam.
 - b. "Solar or wind energy device" means a system or mechanism or series of mechanisms designed to provide

heating or cooling or to produce electrical or mechanical power, or any combination of these, or to store any of these, by a method which converts the natural energy of the sun or wind.

If a geothermal, solar, or wind energy device is a part of a system which uses other means of energy, only that portion of the total system directly attributable to the cost of the geothermal, solar, or wind energy device shall be included in determining the amount of the credit. The costs of installation shall not include costs of redesigning, remodeling, or otherwise altering the structure of a building in which a geothermal, solar, or wind energy device is installed.

SECTION 2. EFFECTIVE DATE. The provisions of this Act shall apply to geothermal, solar, or wind energy devices installed on or after January 1, 1981.

Approved March 11, 1981

CHAPTER 593

SENATE BILL NO. 2358
(Senator Tweten)
(Representative Freborg)

INCOME TAX CREDIT POSSIBILITY

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code to provide for a transfer to a special trust fund and a credit against income taxes if the general fund balance reaches certain levels.

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:

CERTIFICATION OF GENERAL FUND BALANCE - TRANSFER TO TRUST FUND - CREDIT AGAINST INDIVIDUAL AND CORPORATE INCOME TAXES. On or before August 15, 1982, the director of the office of management and budget shall certify to the tax commissioner the revenue which has been credited to the state general fund during the fiscal year beginning July 1, 1981, and ending June 30, 1982. If that amount exceeds four hundred thirty million dollars, the state treasurer, upon order of the office of management and budget, shall transfer the revenue which has been credited in excess of that amount to the special trust fund established by subsection 2 of section 7 of initiated measure No. 6 approved in the November 1980 general election, but in no event shall this transfer exceed twenty million dollars. If the revenue which has been credited to the state general fund during the fiscal year beginning July 1, 1981, and ending June 30, 1982, exceeds four hundred sixty million dollars, there shall be allowed, in addition to the transfer provided above, to individuals, estates, trusts, and corporations required to file income tax returns, a one-time credit for each taxpayer against the amount of tax liability imposed by sections 57-38-29 and 57-38-30 for the first taxable year beginning on or after January 1, 1982. The credit shall be in the amount of ten percent of the taxpayer's income tax liability, and shall be placed on the state income tax returns for individuals, estates, trusts, and corporations as a separate line item on each type of return which shall follow the computation of tax liability pursuant to the provisions of this chapter.

Approved April 8, 1981

* NOTE: This section is temporary and is not codified.

CHAPTER 594

SENATE BILL NO. 2347
(Senators Goodman, Melland, Olin)
(Representatives A. Hausauer, Strinden, Timm)

OPTIONAL INCOME TAX COMPUTATION

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to a simplified optional method of computing state income tax liability; to amend and reenact subsection 21 of section 57-38-01 and section 57-38-30 of the North Dakota Century Code, relating to the updating of the definition of federal taxable income for individuals, estates, trusts, and corporations, and to corporation income tax rates; and to provide an effective date.

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

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

SIMPLIFIED OPTIONAL METHOD OF COMPUTING TAX.

1. Notwithstanding the other provisions of this chapter, an individual, estate, or trust may elect to determine state income tax liability by applying the provisions of this section. Any taxpayer electing to determine his income tax liability pursuant to this section shall only be eligible for those adjustments or credits which are specifically provided for in this section.
2. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. This tax shall be seven and one-half percent of the individual's, estate's, or trust's adjusted federal income tax liability for the taxable year.
3. The adjusted federal income tax liability for a resident individual, estate, and trust shall be determined by multiplying the federal income tax liability by a fraction, the numerator of which is the adjusted gross income taxable to this state and the denominator of which is the total adjusted gross income as reported on the

federal income tax return. Interest income from United States obligations and other income not taxable to this state because of federal statutes, United States or state constitutional provisions shall be excluded from the numerator.

4. The adjusted federal income tax liability of a nonresident individual, estate, and trust shall be determined by multiplying the federal income tax liability by a fraction, the numerator of which is the adjusted gross income derived from sources within this state and the denominator of which is the total adjusted gross income as reported on the federal income tax return. Interest income from United States obligations and other income not taxable to this state because of federal statutes, United States or state constitutional provisions shall be excluded from the numerator.
5. For the purposes of this section, the term "federal income tax liability" means the individual's, estate's, or trust's federal income tax liability as computed for federal income tax purposes using tax tables or schedule TC, plus additional taxes due on federal income tax schedules or forms 4970, 4972, 5544, 5405, section 72(m)(5) penalty tax, 4625, 6251, and 5329, and before credit for contributions to candidates for public office, credit for the elderly (schedule R&RP), credit for child and dependent care expenses (form 2441), investment credit (form 3468), foreign tax credit (form 1116), work incentive credit (form 4874), jobs credit (form 5884), residential energy credit (form 5695), and before reduction for federal income tax withheld, estimated payments, earned income credit, excess Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code of 1954, as amended), and the federal Railroad Retirement Tax Act (chapter 22 of the Internal Revenue Code of 1954, as amended), taxes withheld, credit for federal taxes on special fuels and oils, and regulated investment company credits. The term does not include amounts due for self-employment tax or social security tax and railroad retirement tax on tips.
6. Where a husband and wife determine their federal income tax liability for the taxable year on a joint federal income tax return they may elect to determine their North Dakota income taxes separately. The federal income tax liability shall be apportioned between them in the proportion that the adjusted gross income of each bears to their combined adjusted gross income. The adjusted gross income of each shall be determined in the same way that each would have been required to determine it if they had filed separate federal income tax returns.

7. a. A resident individual, estate, or trust shall be allowed a credit against the tax otherwise due under this section for the amount of any income tax imposed on the taxpayer for the taxable year by another state or territory of the United States or the District of Columbia on income derived from sources therein and which is also subject to tax under this section.
- b. The credit provided under this subsection shall not exceed the proportion of the tax otherwise due under this section that the amount of the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's entire adjusted gross income as reported on the taxpayer's federal income tax return.
8. An individual, estate, or trust shall be allowed as a credit against the tax otherwise due under this section the energy cost relief credit provided for in initiated measure No. 6 as approved by the voters in the November 1980 general election.
9. a. Individuals, estates, or trusts receiving a refund of federal income tax for a year for which an election to file state income tax returns has been made under this section shall file amended state income tax returns reducing the federal income tax liability for the year for which the federal income tax refund is granted and shall not report the federal income tax refund in the year received.
- b. Individuals, estates, or trusts assessed additional federal income tax for a year for which an election to file state income tax returns has been made under this section shall file amended state income tax returns increasing the federal income tax liability for the year for which the additional federal income tax is assessed and shall not report increased federal income tax liability in the year in which the additional federal income tax is paid.
10. The tax commissioner may prescribe procedures and guidelines to prevent requiring income that had been previously taxed under this chapter from becoming taxed again because of the provisions of this section and may prescribe procedures and guidelines to prevent any income from becoming exempt from taxation because of the provisions of this section if it would otherwise have been subject to taxation under the provisions of this chapter.

SECTION 2. AMENDMENT. Subsection 21 of section 57-38-01 of the 1979 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, 1978, provided, however, that these terms shall mean the United States Internal Revenue Code of 1954, as amended to and including December 31, 1976, for purposes of determining under this chapter the income tax return filing requirements, deductions for capital gains, allowances of deductions for personal exemptions, low income allowance, and standard deduction for individuals, estates, and trusts, and provided further that the provisions of section 515 of the Revenue Act of 1978 [Pub. L. 95-600, 92 Stat. 2884] postponing the carryover basis rules of sections 1014(d), 1016(a), and 1023 of the United States Internal Revenue Code of 1954, as amended, for property acquired from decedents dying after December 31, 1976, to property acquired from decedents dying after December 31, 1979, are hereby retroactively incorporated for the purposes of this chapter, and any further postponement, modification, or repeal of these provisions by the Congress of the United States shall be applicable for the purposes of this chapter 1980.

SECTION 3. AMENDMENT. Section 57-38-30 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-30. IMPOSITION AND RATE OF TAX ON CORPORATIONS. A tax is hereby imposed upon the taxable income of every domestic and foreign corporation received from the sources described in sections 57-38-12, 57-38-13, and 57-38-14, which shall be levied, collected, and paid annually as in this chapter provided, and which shall be computed at the following rates:

1. For the first three thousand dollars of taxable income, at the rate of ~~three~~ two percent.
2. On all taxable income above three thousand dollars and not in excess of eight thousand dollars, at the rate of ~~four~~ three percent.
3. On all taxable income above eight thousand dollars and not in excess of ~~fifteen~~ twenty thousand dollars, at the rate of ~~five~~ four percent.
4. On all taxable income above ~~fifteen~~ twenty thousand dollars, and not in excess of ~~twenty-five~~ thirty thousand dollars, at the rate of ~~six~~ five percent.
5. On all taxable income above thirty thousand dollars, and not in excess of fifty thousand dollars, at the rate of six percent.

6. On all taxable income above ~~twenty-five~~ fifty thousand dollars, at the rate of ~~eight-and-one-half~~ seven percent.

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

Approved April 8, 1981

CHAPTER 595

HOUSE BILL NO. 1181
(Committee on Finance and Taxation)
(At the request of the Tax Department)

INCOME TAX INFORMATION ON MAGNETIC TAPE

AN ACT to amend and reenact section 57-38-42 of the North Dakota Century Code, relating to the submission of information reports on magnetic tapes, a notification requirement, and the content of information reports; and to provide for an effective date.

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

SECTION 1. AMENDMENT. Section 57-38-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-42. INFORMATION AT THE SOURCE. Information as to income shall be furnished at the source in the manner following:

1. Every individual, partnership, corporation, joint stock company, or association, or insurance company, a resident of, or having a place of business in, this state, in whatever capacity acting, including lessees and mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state or of any state institution, or of any political subdivision within the state, having control, receipt, custody, disposal, or payment of interest, other than interest coupons payable to bearer, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, amounting to six hundred dollars or over in salaries or wages, and ten dollars or over of dividends or interest if an information return for such amount is also required to be filed for federal income tax purposes, and six hundred dollars or over in other payments mentioned in this chapter, ~~whethe~~ paid ~~or payable~~ during any year to any taxpayer, shall make a complete return thereof to the tax commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by the tax commissioner;

2. Every partnership, having a place of business in this state, shall make a return, stating specifically the items of its gross income and the deductions allowed by this chapter, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributed, and the amount of the distributive share of each individual;
3. All information returns required under subsection 1 of this section shall be made on the basis of a calendar year for payments made ~~or accrued~~ during the calendar year and shall be filed with the tax commissioner on or before April fifteenth of the year following the calendar year for which made. All partnership returns required under subsection 2 of this section shall be made on or before the fifteenth day of the fourth month following the close of the fiscal year of the partnership required to make the return, or if the return is made on the basis of a calendar year, then the return shall be made on or before the fifteenth day of April in the year following the calendar year for which such return is made;
4. Each information return required under subsection 1 of this section and each partnership return required under subsection 2 of this section shall be signed and shall contain or be verified by a written declaration that it is made under the penalties of perjury; and
5. Each information return required under subsection 1 shall be deemed to be filed with the tax commissioner if the person required to make the return has filed an information report on magnetic tape with the United States internal revenue service. All such persons which have received permission from the United States internal revenue service to file on magnetic tape must notify the tax commissioner, by letter, within thirty days of obtaining such permission. This subsection is conditioned on the existence of an agreement between the state of North Dakota and the United States internal revenue service to participate in combined federal-state information reporting.

SECTION 2. EFFECTIVE DATE. The provisions of this Act shall be effective for all calendar years beginning on or after January 1, 1981.

Approved March 5, 1981

CHAPTER 596

HOUSE BILL NO. 1187
(Committee on Judiciary)
(At the request of the Tax Department)

INCOME TAX VIOLATION PENALTY

AN ACT to amend and reenact subsection 3 of section 57-38-45 of the North Dakota Century Code, relating to classification of a misdemeanor for income tax violation.

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

SECTION 1. AMENDMENT. Subsection 3 of section 57-38-45 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Any person or any officer or employee of any partnership who, with intent to evade any requirement of this chapter, shall fail to pay any tax, or to make, sign, or verify any return, or to supply any information required by law, or under the provisions of this chapter, or who with like intent shall make, render, sign, or verify any false or fraudulent information, shall be liable to a penalty of not more than one thousand dollars to be recovered by the attorney general, in the name of the state, by action in any court of competent jurisdiction. He also shall be guilty of a class A misdemeanor, ~~and shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.~~

Approved March 5, 1981

CHAPTER 597

HOUSE BILL NO. 1615
(Timm, Unhjem)

ESTATE TAX FEDERALIZATION AND INCOME AVERAGING

AN ACT to create and enact a new section to chapter 57-38.2 of the North Dakota Century Code, relating to qualified plan income averaging for income tax purposes; to amend and reenact subsection 8 of section 57-37.1-01, and sections 57-38.2-02 and 57-38.2-04 of the North Dakota Century Code, relating to updating the federalization of the state estate tax, qualified plan income averaging, and rules and regulations for the administration of income averaging; and providing an effective date.

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

SECTION 1. AMENDMENT. Subsection 8 of section 57-37.1-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "United States Internal Revenue Code of 1954, as amended" means the United States Internal Revenue Code of 1954 as amended to and including December 31, ~~1978~~ 1980.

SECTION 2. A new section to chapter 57-38.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

QUALIFIED PLAN INCOME AVERAGING - COMPUTATION - ELECTION. If the taxpayer receives a lump sum distribution from a qualified pension, profit sharing, stock bonus, or annuity plan during the computation year and elects to have the separate tax on lump sum distributions apply for federal income tax purposes, the amount of tax imposed by section 57-38-29 for the computation year which is attributable to such distribution shall, at the election of the taxpayer, be an amount equal to the amount of the initial separate tax for such computation year multiplied by a fraction, the numerator of which is the ordinary income portion of the lump sum distribution for the computation year and the denominator of which is the total taxable amount of the distribution for the computation year. The initial separate tax for any computation year is an amount equal to ten times the tax which would be imposed by section

57-38-29 if the taxable income was an amount equal to one thousand dollars plus one-tenth of the excess of the total taxable amount of the lump sum distribution for the computation year over the minimum distribution allowance allowed for federal income tax purposes. If the distribution, or any part thereof, is an annuity contract, the amount of tax so computed shall be reduced by that portion of the tax which is attributable to an annuity contract, but in no event shall the tax so computed be reduced below zero. Lump sum distributions received by the taxpayer during prior computation years shall be disregarded in computing the amount of tax imposed pursuant to this section. No amount which is not an annuity contract may be treated as a lump sum distribution unless the taxpayer elects for the computation year to have all such amounts received during such year so treated at the time and in the manner prescribed by the tax commissioner. Not more than one election may be made with respect to any taxpayer after such taxpayer has attained fifty-nine and one-half years of age. No election may be made by any taxpayer other than an individual, an estate, or a trust. In the case of a lump sum distribution made with respect to a taxpayer to two or more trusts, the election shall be made by the personal representative of the taxpayer.

SECTION 3. AMENDMENT. Section 57-38.2-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38.2-02. ELIGIBILITY FOR INCOME AVERAGING AND QUALIFIED PLAN INCOME AVERAGING. A taxpayer who was a resident of North Dakota throughout the computation year and throughout the base period and 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 chapter for state income tax purposes. In addition, a taxpayer who was a resident of North Dakota throughout the computation year and who receives a lump sum distribution during that year from a qualified pension, profit sharing, stock bonus, or annuity plan under section 401 of the Internal Revenue Code of 1954, as amended, and elects to have the separate tax on lump sum distributions apply for federal income tax purposes, may average his income attributable to such distribution as provided in this chapter for state income tax purposes.

SECTION 4. AMENDMENT. Section 57-38.2-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38.2-04. RULES AND REGULATIONS. The tax commissioner may prescribe rules and regulations for the administration of this chapter which shall be, except as otherwise required by this chapter, based upon the regulations prescribed for the administration of subchapter D and subchapter Q of the Internal Revenue Code of 1954, as amended.

SECTION 5. EFFECTIVE DATE. The provisions of section 1 of this Act shall be effective for the estate of any decedent whose death occurs on or after January 1, 1981, and the provisions of the remainder of this Act shall be effective for all taxable years beginning on or after January 1, 1981.

Approved March 20, 1981

CHAPTER 598

SENATE BILL NO. 2056
(Legislative Council)
(Interim Finance and Taxation Committee)

WATER SALES TAX 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 exempting sales of water from the sales and use taxes; and to amend and reenact subsections 2, 3, and 5 of section 57-39.2-01, subdivision b of subsection 1 of section 57-39.2-02.1, section 57-39.2-04.1, subsection 2 of section 57-39.2-18, subdivision a of subsection 6 of section 57-40.2-01, and section 57-40.2-04.1 of the North Dakota Century Code, relating to exempting water from the sales and use taxes.

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

* SECTION 1. AMENDMENT. Subsections 2, 3, and 5 of section 57-39.2-01 of the 1979 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration, and includes the furnishing or service of steam, gas, ~~electricity,~~ ~~water,~~ or communication, the furnishing of hotel, motel or tourist court accommodations, the furnishing of 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 sales of subscriptions to magazines and other periodicals regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription; provided that the words "magazines and other periodicals" as used herein shall not include newspapers nor shall they include magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.

* NOTE: Subsection 2 of section 57-39.2-01 was also amended by section 1 of Senate Bill No. 2223, chapter 599, and subsection 5 of section 57-39.2-01 was also amended by House Bill No. 1575, chapter 600.

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. The sale of an item of tangible personal property to a purchaser who rents or leases it to a person under a finance leasing agreement over the term of which the property will be substantially consumed shall be considered a retail sale if the purchaser elects to treat it as such by paying or causing the transferor to pay the sales tax thereon to the commissioner on or before the last day on which payments may be made without penalty as provided in section 57-39.2-12.
5. "Retailer" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, ~~electricity,--water~~ and communication services, or tickets or admissions to places of amusement, entertainment and athletic events

including the playing of any machine for amusement or entertainment in response to the use of a coin, or magazines, or other periodicals, and any person engaged in operating or managing a publicly owned facility; and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in the manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas, ~~electricity, water,~~ or communication service to members of the public in its proprietary capacity. For the purpose of this chapter retailer shall also include every clerk, auctioneer, agent or factor selling tangible personal property owned by any other retailer.

* SECTION 2. AMENDMENT. Subdivision b of subsection 1 of section 57-39.2-02.1 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

b. The furnishing or service of steam, gas, ~~water,~~ or communication services.

SECTION 3. A new subsection to section 57-39.2-04 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from all sales of water.

SECTION 4. AMENDMENT. Section 57-39.2-04.1 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-04.1. SALES TAX EXEMPTION FOR FOOD AND FOOD PRODUCTS. Beginning July 1, 1973, gross receipts from sales for human consumption of food and food products including but not limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, poultry and fish and other fresh and saltwater animal products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products including candy and confectionary products, chewing gum, coffee and coffee substitutes, tea, cocoa and cocoa products, and carbonated beverages when purchased by consumers for consumption off the premises where purchased, shall be exempt from the sales tax imposed by chapter 57-39.2. "Food" and "food products" as used herein shall not include any alcoholic beverages

* NOTE: Subsection 1 of section 57-39.2-02.1 was also amended by section 2 of Senate Bill No. 2223, chapter 599, and by section 1 of Senate Bill No. 2379, chapter 602, and section 57-39.2-02.1 was also amended by section 1 of Senate Bill No. 2193, chapter 601.

or mixed drinks made therefrom, ~~bottled--water,~~ or medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

SECTION 5. AMENDMENT. Subsection 2 of section 57-39.2-18 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Any person who shall sell tangible personal property, tickets or admissions to places of amusement, and athletic events, or steam, gas, ~~water,---electricity,~~ and communication service at retail in this state after his permit shall have been revoked, or without procuring a permit within sixty days after the effective date of this chapter, as provided in section 57-39.2-14, or who shall violate the provisions of section 57-39.2-09, and the officers of any corporation who shall so act, shall be guilty of a class A misdemeanor.

* SECTION 6. AMENDMENT. Subdivision a of subsection 6 of section 57-40.2-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. Tangible goods, wares, and merchandise, and gas, ~~electricity,-and-water,~~ when furnished or delivered to consumers or users within this state.

SECTION 7. 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 all sales of water.

SECTION 8. AMENDMENT. Section 57-40.2-04.1 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-04.1. USE TAX EXEMPTION FOR FOOD AND FOOD PRODUCTS. Beginning July 1, 1973, gross receipts from sales for human consumption of food and food products including but not limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, poultry and fish and other fresh and saltwater animal products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products including candy and confectionary products, chewing gum, coffee and coffee substitutes, tea, cocoa and cocoa products, and carbonated beverages when purchased by consumers for consumption off the premises where purchased, shall be exempt from the use tax imposed by chapter 57-40.2. "Food" and "food products" as used herein shall not include any alcoholic beverages or mixed drinks made therefrom, ~~bottled--water,~~ or medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

Approved March 19, 1981

- * NOTE: Subsection 6 of section 57-40.2-01 was also amended by section 3 of Senate Bill No. 2223, chapter 599.

CHAPTER 599

SENATE BILL NO. 2223
(Olin)

MAGAZINE SUBSCRIPTION SALES TAX EXEMPTION

AN ACT to amend and reenact subsections 2 and 6 of section 57-39.2-01, subsection 1 of section 57-39.2-02.1, and subsections 6 and 9 of section 57-40.2-01 of the North Dakota Century Code, relating to the exemption from the use and sales taxes of subscriptions, or sales of subscriptions, to magazines and other periodicals.

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

* SECTION 1. AMENDMENT. Subsections 2 and 6 of section 57-39.2-01 of the 1979 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means ~~whatsoever~~ whatever, for a consideration, and includes the furnishing or service of steam, gas, electricity, water, or communication, the furnishing of hotel, motel or tourist court accommodations, the furnishing of 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 sales of ~~subscriptions--to~~ magazines and other periodicals ~~regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription, provided that.~~ Provided, the words "magazines and other periodicals" as used herein ~~shall in this subsection do not include newspapers nor shall they include~~ magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.

6. "Gross receipts" means the total amount of sales of retailers, valued in money, whether received in money or otherwise, ~~provided, however, that.~~ Provided, discounts

* NOTE: Subsection 2 of section 57-39.2-01 was also amended by section 1 of Senate Bill No. 2056, chapter 598.

for any purposes allowed and taken on sales shall are not be included, nor shall is the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided further, ~~however, that~~ when tangible personal property is taken in trade or in a series of trades as a credit or part payment of a retail sale taxable under this chapter, if the tangible personal property traded in will be subject to the sales tax imposed by this chapter when sold or will be subject to the motor vehicle excise tax imposed by chapter 57-40.3, the credit or trade-in value allowed by the retailer shall are not be ~~regarded as~~ gross receipts. Provided further, ~~however, that~~ on all sales of retailers, valued in money, when ~~such~~ the sales are made under a conditional sales contract, or under other forms of sale wherein the payment of the principal sum ~~thereunder~~ is to be extended over a period longer than sixty days from the date of sale ~~thereof~~ that only ~~such~~ the portion of the sale amount ~~thereof~~ shall be accounted for, for the purpose of imposition of tax imposed by this chapter, as has actually been received in cash by the retailer during each quarterly period as defined herein. "Gross receipts" shall also mean means, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only ~~such~~ tangible personal property the transfer of title to which has not been subjected to a retail sales tax in this state. ~~"Gross receipts" shall also mean, with respect to subscriptions to magazines and other periodicals, the amount of consideration, valued in money, whether received in money or otherwise, received from the sale of such subscriptions regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription.~~ For the purpose of this chapter, gross receipts shall also include the total amount of sales of every clerk, auctioneer, agent, or factor selling tangible personal property owned by any other retailer.

* SECTION 2. AMENDMENT. Subsection 1 of section 57-39.2-02.1 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

* NOTE: Subsection 1 of section 57-39.2-02.1 was also amended by section 2 of Senate Bill No. 2056, chapter 598, and by section 1 of Senate Bill No. 2379, chapter 602, and section 57-39.2-02.1 was amended by section 1 of Senate Bill No. 2193, chapter 601.

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

* SECTION 3. AMENDMENT. Subsections 6 and 9 of section 57-40.2-01 of the 1979 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

6. "Tangible personal property" means:

- a. Tangible goods, wares, and merchandise, and gas, electricity, and water, when furnished or delivered to consumers or users within this state.
- b. The leasing or renting of tangible personal property, the sale, storage, use, or consumption of which has not been previously subjected to a retail sales or use tax in this state.
- c. The purchase of ~~subscriptions to~~ magazines or other periodicals ~~regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscriptions; provided that.~~ Provided, the words "magazines and other periodicals" as used herein shall in this paragraph do not include newspapers nor shall they include magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.

* NOTE: Subdivision a of subsection 6 of section 57-40.2-01 was also amended by section 6 of Senate Bill No. 2056, chapter 598.

- d. The severance of sand or gravel from the soil.
9. "Purchased at retail" ~~shall include~~ includes, but shall not be limited to:
- a. The completion of the fabricating, compounding, or manufacturing of tangible personal property by a person for storage, use, or consumption by that person.
- b. The leasing or renting of tangible personal property, the sale, storage, use, or consumption of which has not been previously subjected to a retail sales or use tax in this state.
- c. The purchase of ~~subscriptions to~~ magazines or other periodicals ~~regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscriptions, provided that.~~ Provided, the words "magazines and other periodicals" as used ~~herein shall in this paragraph do not include newspapers nor shall they include~~ magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.
- d. The severance of sand or gravel from the soil.
- e. The purchase, including the leasing or renting, of tangible personal property from any bank for storage, use or consumption.
- f. The purchase of an item of tangible personal property by a purchaser who rents or leases it to a person under a finance leasing agreement over the term of which the property will be substantially consumed, if the purchaser elects to treat it as being purchased at retail by paying or causing the transferor to pay the use tax ~~thereon~~ to the commissioner on or before the last day on which payments may be made without penalty as provided in section 57-40.2-07.

Approved March 6, 1981

CHAPTER 600

HOUSE BILL NO. 1575
(Timm, D. Olson)

"RETAILER" DEFINED

AN ACT to amend and reenact subsection 5 of section 57-39.2-01 of the North Dakota Century Code, relating to definition of retailer.

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

* SECTION 1. AMENDMENT. Subsection 5 of section 57-39.2-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "Retailer" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, electricity, water, and communication services, or tickets or admissions to places of amusement, entertainment, and athletic events including the playing of any machine for amusement or entertainment in response to the use of a coin, or magazines, or other periodicals, ~~and any person engaged in operating or managing a publicly-owned facility~~; and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in the manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas, electricity, water, or communication service to members of the public in its proprietary capacity. For the purpose of this chapter retailer shall also include every clerk, auctioneer, agent or factor selling tangible personal property owned by any other retailer.

Approved March 5, 1981

* NOTE: Subsection 5 of section 57-39.2-01 was also amended by section 1 of Senate Bill No. 2056, chapter 598.

CHAPTER 601

SENATE BILL NO. 2193
(Tierney, Dykshoorn, Lodoen, Olin, Redlin)

MOBILE HOME SALES TAX

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 an exemption from the sales tax and use tax for sales of mobile homes upon which the sales tax or use tax has previously been imposed; and to amend and reenact section 57-39.2-02.1, subsection 2 of section 57-39.2-08.2, and section 57-40.2-02.1 of the North Dakota Century Code, relating to the sales tax imposed, sales tax to be added to purchase price and be a debt, and use tax imposed.

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

* SECTION 1. AMENDMENT. Section 57-39.2-02.1 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-02.1. SALES TAX IMPOSED.

1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes used for residential or business purposes and for sales of farm machinery and irrigation equipment used exclusively for agricultural purposes, and except as otherwise expressly provided in this chapter, there is hereby imposed a tax of three percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as hereinafter provided in this section, within the state of North Dakota of the following to consumers or users:
 - a. Tangible personal property, consisting of goods, wares, or merchandise, except mobile homes used for residential or business purposes and farm machinery and irrigation equipment used exclusively for agricultural purposes.
 - b. The furnishing or service of steam, gas, water, or communication services.

* NOTE: Subdivision b of subsection 1 of section 57-39.2-02.1 was also amended by section 2 of Senate Bill No. 2056, chapter 598, and subsection 1 of section 57-39.2-02.1 was amended by section 2 of Senate Bill No. 2223, chapter 599, and by section 1 of Senate Bill No. 2379, chapter 602.

- c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment or athletic activity, and including the playing of any machine for amusement or entertainment in response to the use of a coin.
 - d. Magazines and other periodicals, including subscriptions thereto.
 - e. The leasing or renting of hotel, motel, or tourist court accommodations for periods of less than thirty consecutive calendar days or one month.
 - f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under the provisions of chapter 57-40.2.
2. There is hereby imposed a tax of two percent upon the gross receipts of retailers from all sales at retail of mobile homes used for residential or business purposes, except as provided in section 2 of this Act, and of farm machinery and irrigation equipment used exclusively for agricultural purposes, including the leasing or renting of farm machinery and irrigation equipment used exclusively for agricultural purposes within the state of North Dakota to consumers or users.

SECTION 2. A new subsection to section 57-39.2-04 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from the sale of a mobile home which has been sold, bargained, exchanged, given away, or transferred by the person who first acquired it from a retailer in a sale at retail and upon which the North Dakota sales tax has previously been imposed.

SECTION 3. AMENDMENT. Subsection 2 of section 57-39.2-08.2 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. On retail sales of mobile homes used for residential or business purposes, except as provided in section 2 of this Act, and of farm machinery and irrigation equipment used exclusively for agricultural purposes, retailers shall add the tax imposed under this chapter, or the average equivalent thereof, to the sales price or charge, and when added, such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to the retailer until paid, and shall be recoverable at law in the same manner as other debts. In adding such tax to the

price or charge, retailers shall add to it two percent of such price or charge.

SECTION 4. AMENDMENT. Section 57-40.2-02.1 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-02.1. USE TAX IMPOSED.

1. Except as otherwise expressly provided in subsection 2 for purchases of mobile homes used for residential or business purposes and for purchases of farm machinery and irrigation equipment used exclusively for agricultural purposes, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of three percent of the purchase price of such property. Except as limited by section 57-40.2-11, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of three percent of the fair market value of such property at the time it was brought into this state.
2. An excise tax is imposed on the storage, use, or consumption in this state of mobile homes used for residential or business purposes, except as provided in section 5 of this Act, and of farm machinery and irrigation equipment used exclusively for agricultural purposes purchased at retail for storage, use, or consumption in this state at the rate of two percent of the purchase price thereof. Except as limited by section 57-40.2-11, and except as provided in section 2 of this Act, an excise tax is imposed on the storage, use, or consumption in this state of mobile homes used for residential or business purposes and of farm machinery and irrigation equipment used exclusively for agricultural purposes not originally purchased for storage, use, or consumption in this state at the rate of two percent of the fair market value of such mobile homes used for residential or business purposes and of such farm machinery and irrigation equipment used exclusively for agricultural purposes at the time it was brought into this state.

SECTION 5. A new subsection to section 57-40.2-04 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from the sale of a mobile home which has been sold, bargained, exchanged, given away, or transferred by the person who first acquired it from a retailer in a sale at retail and upon which the North Dakota use tax has previously been imposed.

Approved March 19, 1981

CHAPTER 602

SENATE BILL NO. 2379
(Wright)

AGRICULTURAL PRODUCT STEAM OR ELECTRICITY SALES TAX EXEMPTION

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 exemption of gross receipts from the sale of byproducts resulting from the processing of agricultural products and used in the manufacture or generation of steam or electricity; and to amend and reenact subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code, relating to sales tax imposed on the furnishing or service of steam used for processing agricultural products.

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

* SECTION 1. AMENDMENT. Subsection 1 of section 57-39.2-02.1 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as otherwise expressly provided in subsection 2 for sales of farm machinery and irrigation equipment used exclusively for agricultural purposes, and except as otherwise expressly provided in this chapter, there is hereby imposed a tax of three percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as hereinafter provided in this section, within the state of North Dakota of the following to consumers or users:
 - a. Tangible personal property, consisting of goods, wares, or merchandise, except farm machinery and irrigation equipment used exclusively for agricultural purposes.
 - b. The furnishing or service of steam other than steam used for processing agricultural products, gas, water, or communication services.
 - c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts

* NOTE: Subdivision b of subsection 1 of section 57-39.2-02.1 was also amended by section 2 of Senate Bill No. 2056, chapter 598, subsection 1 of section 57-39.2-02.1 was also amended by section 2 of Senate Bill No. 2223, chapter 599, and section 57-39.2-02.1 was also amended by section 1 of Senate Bill No. 2193, chapter 601.

charged for participation in an amusement, entertainment or athletic activity, and including the playing of any machine for amusement or entertainment in response to the use of a coin.

- d. Magazines and other periodicals, including subscriptions thereto.
- e. The leasing or renting of hotel, motel, or tourist court accommodations for periods of less than thirty consecutive calendar days or one month.
- f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under the provisions of chapter 57-40.2.

SECTION 2. A new subsection to section 57-39.2-04 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from the sale of byproducts, arising from the processing of agricultural products, for use in the manufacture or generation of steam or electricity.

Approved March 11, 1981

CHAPTER 603

HOUSE BILL NO. 1216
(Conmy)

SALES AND USE TAX MONEY SALE EXEMPTION

AN ACT to create and enact new subsections to sections 57-39.2-04 and 57-40.2-04 of the North Dakota Century Code to provide exemptions from sales and use taxes for the sale of money.

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 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from the sale of money including all legal tender coins and currency.

SECTION 2. A new subsection to section 57-40.2-04 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from the sale of money including all legal tender coins and currency.

Approved March 2, 1981

CHAPTER 604

HOUSE BILL NO. 1120
(Unhjem)

**NONPROFIT VOLUNTARY HEALTH ASSOCIATION
SALES TAX 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 exempting sales to certain nonprofit voluntary health associations from 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 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from sales to nonprofit voluntary health associations which are exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)]. As used in this subsection, a voluntary health association is an organization recognized by the internal revenue service, the national health council, the state tax commissioner, and the North Dakota secretary of state as a nonprofit organization that is exempt under section 501(c)(3) of the United States Internal Revenue Code and meets the following requirements: It has been organized and operated exclusively in providing services for the purposes of preventing and alleviating human illness and injury. Methods used to obtain these goals would include education, research, community service and direct patient services, income being derived solely from private donations with some exceptions of a minimal membership fee. Its members are not limited to only individuals, who themselves are licensed or otherwise legally authorized to render the same professional services as the organization. The disbursement of funds within a volunteer health association is to be controlled by a board of directors who work voluntarily and without pay.

SECTION 2. A new subsection to section 57-40.2-04 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from sales to nonprofit voluntary health associations which are exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)]. As used in this subsection, a voluntary health association is an organization recognized by the internal revenue service, the national health council, the state tax commissioner, and the North Dakota secretary of state as a nonprofit organization that is exempt under section 501(c)(3) of the United States Internal Revenue Code and meets the following requirements: It has been organized and operated exclusively in providing services for the purposes of preventing and alleviating human illness and injury. Methods used to obtain these goals would include education, research, community service and direct patient services, income being derived solely from private donations with some exceptions of a minimal membership fee. Its members are not limited to only individuals, who themselves are licensed or otherwise legally authorized to render the same professional services as the organization. The disbursement of funds within a volunteer health association is to be controlled by a board of directors who work voluntarily and without pay.

Approved March 5, 1981

CHAPTER 605

SENATE BILL NO. 2282
(Nething, Goodman)

DIABETIC AND BLADDER DYSFUNCTION SUPPLIES SALES TAX EXEMPTION

AN ACT to create and enact a new subsection to section 57-39.2-04 and a new subdivision to subsection 26 of section 57-39.2-04 of the North Dakota Century Code, relating to a sales tax exemption for diabetic and bladder dysfunction supplies.

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 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from all sales of insulin in all its forms dispensed pursuant to the direction of a licensed physician, all sales of glucose usable for treatment of insulin reactions, all sales of urine and blood testing kits and materials, and all sales of insulin measuring and injecting devices, including insulin syringes and hypodermic needles.

SECTION 2. A new subdivision to subsection 26 of section 57-39.2-04 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Supplies, equipment, and devices to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinent pads and pants, and other items used for the care and management of bladder dysfunction.

Approved March 19, 1981

CHAPTER 606

SENATE BILL NO. 2294
(Cussons)

"PURCHASE PRICE" DEFINED

AN ACT to amend and reenact subsection 9 of section 57-40.3-01 of 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 1979 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. If a motor vehicle is purchased by an owner who has had a motor vehicle stolen or totally destroyed, a credit or trade-in credit shall be allowed in an amount not to exceed the total amount the purchaser has been compensated by an insurance company for said loss. The purchaser must provide the motor vehicle registrar with a notarized statement from the insurance company verifying the fact that the original vehicle was a total loss and stating the amount compensated by the insurance company for the loss. The statement from the insurance company must accompany the purchaser's application for a certificate of title for the replacement vehicle. 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 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.

Approved March 18, 1981

CHAPTER 607

HOUSE BILL NO. 1475
(DuBord, Kelly)

MOTOR VEHICLE EXCISE TAX EXEMPTION

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

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

SECTION 1. A new subsection to section 57-40.3-04 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Motor vehicles acquired by any parochial or private nonprofit school to be used for the transportation of students, provided that to qualify a school must normally maintain a regular faculty and curriculum and must have a regularly organized body of students in attendance, and provided that the vehicles are not to be used for commercial activities.

Approved March 5, 1981

CHAPTER 608

HOUSE BILL NO. 1299
(Kingsbury)

MOTOR VEHICLE EXCISE TAX EXEMPTION

AN ACT to create and enact a new subsection to section 57-40.3-07 of the North Dakota Century Code, exempting certain vehicles from payment of the motor vehicle excise tax in order to transfer title.

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

SECTION 1. A new subsection to section 57-40.3-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

For vehicles which have been previously licensed and are transferred between a member of a general or limited partnership and the partnership at the time the partnership is established or terminated, or between a stockholder of a corporation and the corporation at the time the corporation is organized or liquidated.

Approved March 2, 1981

CHAPTER 609

SENATE BILL NO. 2156
(Committee on Finance and Taxation)
(At the request of the Tax Department)

MOTOR VEHICLE EXCISE TAX PENALTY

AN ACT to amend and reenact section 57-40.3-11 of the North Dakota Century Code, relating to motor vehicle excise tax penalties.

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

SECTION 1. AMENDMENT. Section 57-40.3-11 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.3-11. PENALTIES.

1. Any person who shall violate any of the provisions of this chapter shall be guilty of a class B misdemeanor.
2. Any person who shall submit a false or fraudulent "Motor Vehicle Purchaser's Certificate" shall be subject to a penalty of five percent of the true amount of the tax which was due or five dollars, whichever is greater, plus one percent of such tax for each month or fraction thereof subsequent to the month in which the false or fraudulent "Motor Vehicle Purchaser's Certificate" was furnished to the motor vehicle registrar. Such penalty shall be paid to either the tax commissioner or the motor vehicle registrar and disposed of pursuant to the provisions of subsection 3 of section 57-40.3-10. The tax commissioner, if satisfied that the delay was excusable, may waive, and if paid, refund all or any part of such penalty and interest. Unpaid penalties may be enforced in the same manner as the tax imposed by this chapter.
3. Whenever a person, including any motor vehicle dealer, has collected from a person acquiring a motor vehicle, a motor vehicle excise tax in excess of the amount prescribed or due under this chapter, and if the person does not refund the excessive tax collected to the person who remitted it, the person who collected the tax shall pay it to the tax commissioner in the quarterly period in which the excessive collection occurred. The penalty and interest provisions of this section shall apply beginning at the termination of each reporting period.

Approved March 5, 1981

CHAPTER 610

HOUSE BILL NO. 1456
(Freborg)

MOTOR VEHICLE FUEL TAX REFUND

AN ACT to amend and reenact section 57-50-03 of the North Dakota Century Code, relating to refunds for motor vehicle fuel purchases.

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

SECTION 1. AMENDMENT. Section 57-50-03 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-03. CLAIM FOR REFUND - LIMITATION ON FILING. A refund claim must be filed, for all motor vehicle fuel purchases during a calendar year, on or after January first and before July first of the year next following, or the claim for refund shall be barred unless the tax commissioner grants an extension of time for cause. However, any claim for refund may be filed in the calendar year of motor vehicle fuel purchase when:

1. The business is being discontinued;
2. No further purchases subject to fuel tax refund will be made in the remainder of the calendar year; or
3. The claim for refund exceeds one thousand dollars.

No claim for refund shall be made or approved unless the amount of the claim is in excess of ~~ten~~ five dollars.

Approved March 3, 1981

CHAPTER 611

HOUSE BILL NO. 1529
(Murphy, R. Anderson, Hughes, Wald, Whalen)

OIL AND GAS PRODUCTION TAX APPORTIONMENT

AN ACT to amend and reenact section 57-51-15 of the North Dakota Century Code to provide for distribution of the oil and gas gross production tax; and to repeal section 57-51-08 of the North Dakota Century Code, relating to adjustments to the gross production tax rate by the state board of equalization.

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

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

57-51-15. APPORTIONMENT AND USE OF PROCEEDS OF TAX. The gross production tax provided for in this chapter shall be apportioned as follows, to wit:

1. First an amount equal to one percent of the gross value at the well of the oil and gas upon which a tax is collected under this chapter shall be deposited with the state treasurer, who shall credit it to the general fund.
2. The first ~~two--hundred--thousand~~ one million dollars of annual revenue after the deduction of the amount provided for in subsection 1 of this section from oil or gas produced in any county shall be allocated seventy-five percent to that county and twenty-five percent to the state general fund. The second ~~two--hundred--thousand~~ one million dollars of annual revenue after the deduction of the amount provided for in subsection 1 of this section from oil or gas produced in any county shall be allocated fifty percent to that county and fifty percent to the state general fund. All annual revenue after the deduction of the amount provided for in subsection 1 of this section above ~~four--hundred--thousand~~ two million dollars from oil or gas produced in any county shall be allocated twenty-five percent to that county and seventy-five percent to the state general fund. However, the amount to which each county shall be entitled pursuant to

this subsection shall be limited based upon the population of the county according to the last official decennial federal census as follows:

- a. Counties having a population of three thousand or less shall receive no more than three million two hundred thousand dollars for the first year of the 1981-83 biennium and no more than three million eight hundred thousand dollars the second year of that biennium.
- b. Counties having a population of over three thousand but less than six thousand shall receive no more than three million five hundred thousand dollars the first year of the 1981-83 biennium and no more than four million dollars the second year of that biennium.
- c. Counties having a population of six thousand or more shall receive no more than four million dollars the first year of the 1981-83 biennium and no more than four million five hundred thousand dollars the second year of that biennium.

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

3. Fifty Fourty-five percent of all revenues as may by the legislature legislative assembly be allocated to any county hereunder shall be credited by the county treasurer to the county read--and--bridge general fund,--provided, however,--that--the--board--of--county--commissioners--may--by--resolution--transfer,--use--or--irrevocably--pledge--so--much thereof--and--for--such--period--as--it--may--deem--necessary--and in--the--best--public--interest--for--the--purpose--of--conducting, undertaking--and--participating--in--underground--or--surface water---surveys---and---investigations,---development, construction,--reconstruction--and--maintenance--of--works, dams--and--projects--for--the--control,--distribution--and beneficial--utilization--of--water--resources. Forty-five Thirty-five percent of all revenues allocated to any county shall be apportioned by the county treasurer quarterly to school districts within the county on the average daily attendance distribution basis, as certified to him by the county superintendent of schools. However, no school district shall receive in any single academic year an amount under this subsection greater than the county average per-pupil cost multiplied by seventy percent, then multiplied by the number of pupils in average daily attendance or the number of children of school age in the school census for the county whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the

county shall be entitled to one hundred twenty percent of the county average per-pupil cost multiplied by number of pupils in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share shall be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection. Fifteen Twenty percent of all revenues allocated to any county hereunder shall be paid quarterly 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. However, no city shall receive in any fiscal year an amount under this subsection greater than five hundred dollars per capita. Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation shall be deposited instead in the county general fund. Provided, however, that in determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of determining the per capita limitation in this section shall be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

- a. Seasonal employees of state and federal tourist facilities within five miles of the city shall be included by adding the months all such employees were employed during the prior year and dividing by twelve.
- b. Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city shall be included by adding the months all such employees were employed during the prior year and dividing by twelve.
- c. The number of visitors to the tourist attraction within the city or within five miles of the city which draws the largest number of visitors annually shall be included by taking the smaller of either of the following:

(1) The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or

(2) Four hundred twenty.

SECTION 2. REPEAL. Section 57-51-08 of the North Dakota Century Code is hereby repealed.

Approved April 6, 1981

CHAPTER 612

HOUSE BILL NO. 1651
(Strinden)

(Approved by the Committee on Delayed Bills)

OIL EXTRACTION TAX DEFINITIONS AND REPORTS

AN ACT to create and enact a new section to initiated measure No. 6 as approved at the general election held on November 4, 1980, relating to computation of the average daily production of a well on a property basis; and to amend and reenact subsection 2 of section 3, and section 4 of initiated measure No. 6 as approved at the general election held on November 4, 1980, relating to the exemption of production from stripper well property and the definition of "stripper well property", the definition of "qualified maximum total production" of oil as used in the definition of "average daily production", the definition of "property", and calculation of production on a monthly basis; and to provide an effective date.

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

SECTION 1. AMENDMENT. Subsection 2 of Section 3 of initiated measure No. 6 as approved at the general election held on November 4, 1980, is hereby amended and reenacted to read as follows:

2. The activity of extracting from the earth any oil from a stripper well property.

SECTION 2. AMENDMENT. Section 4 of initiated measure No. 6 as approved at the general election held on November 4, 1980, is hereby amended and reenacted to read as follows:

SECTION 4. DEFINITIONS FOR OIL EXTRACTION TAX. For the purposes of the oil extraction tax law, the following words and terms shall have the meaning ascribed to them in this section:

1. "Oil" ~~shall-mean means~~ petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid hydrocarbons that are recovered from gas ~~by-means-of-a-separator,-or-by-ether nonmechanical-methods,~~ on the lease incidental to the production of the gas.

2. "Stripper well property" shall-mean-an-oil-producing-well means a "property" whose average daily production of oil is--ten--barrels--or-less-during-the-calendar-quarter-year period--for--which--the--exemption--in--subsection-2--of section-3--of--this--Act--is--claimed, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day during any preceding consecutive twelve-month period beginning after December 31, 1972. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.
3. "Average daily production" of a well shall-mean means the qualified maximum total production of oil from the well during a calendar quarter-year month period divided by the number of calendar days in that period; and "qualified maximum total production" of a well shall-mean means that the well must have been maintained at the maximum possible rate--of--production--during-the-period-in-accordance-with recognized-conservation-practices--and--not--significantly curtailed--by--reason--of--mechanical--failure--or--other disruption-of-production efficient rate of production as defined and determined by rule adopted by the industrial commission in furtherance of its authority under chapter 38-08.
4. "Royalty owner" shall--mean means an owner of what is commonly known as the royalty interest and shall not include the owner of any overriding royalty or other payment carved out of the working interest.
5. "Property" means the right which arises from a lease or fee interest, as a whole or any designated portion thereof, to produce oil. A producer may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil, provided that such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.

SECTION 3. A new section to initiated measure No. 6 as approved at the general election held on November 4, 1980, is hereby created and enacted to read as follows:

AUTHORITY OF TAX COMMISSIONER TO ACCEPT PRODUCTION REPORTS COMPUTED ON A PROPERTY BASIS. For good cause shown, upon application to the tax commissioner, any person required to file a producer's or purchaser's report may be allowed to compute the average daily production of a well on the basis of the average daily

production of the property on which the well is located. However, no well with an average daily production of more than one hundred barrels a day may be included in a property for purposes of determining that property's average daily production; all such wells must be reported on an individual basis.

SECTION 4. EFFECTIVE DATE. This Act shall become effective as of January 1, 1981.

Approved March 31, 1981

CHAPTER 613

SENATE BILL NO. 2338
(Senators Olin, Goodman, Redlin)
(Representatives Haugland, R. Hausauer, Kloubec)

RESOURCES TRUST FUND

AN ACT to amend and reenact section 1 and subsection 2 of section 7 of initiated measure No. 6 as enacted by the people of the state of North Dakota, to provide a statement of legislative intent concerning water development and providing for creation of a resources trust fund; providing an appropriation and transfer; and declaring an emergency.

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

SECTION 1. AMENDMENT. Section 1 of initiated measure No. 6 as adopted at the general election in 1980 is hereby amended and reenacted to read as follows:

SECTION 1. INTENT. It is the intent of the electors of the state of North Dakota and the legislative assembly to increase the funding of educational opportunities for students in the elementary and secondary schools in North Dakota, to provide funds for Grafton state school, to provide for water development and utilization and energy conservation and development programs, and to equalize the tax structure and revenue sources of the state by enactment of an excise tax to be known as the "oil extraction tax" and enactment of an income tax credit and a credit for the county's twenty-one mill property tax levy for schools.

The legislative assembly has determined that many areas within the state of North Dakota do not have adequate water supplies for municipal, domestic, livestock, light industrial, and other uses. However, adequate water supplies are essential for the social and economic stability of municipalities and rural areas. It is, therefore, declared to be in the best interest of the people of the state of North Dakota to establish a resources trust fund to be used to construct, or assist in the construction of, multiple use water supply facilities. The legislative assembly also recognizes that appropriate planning to meet current and long-range water needs for the benefit of all of the citizens of the state of North Dakota is a matter of concern and high priority. The legislative assembly further intends that revenues, generated by use of any facilities

constructed, in whole or in part, with financing from the resources trust fund, shall be deposited in the resources trust fund.

SECTION 2. AMENDMENT. Subsection 2 of section 7 of initiated measure No. 6 as adopted by the people at the general election in 1980 is hereby amended and reenacted to read as follows:

2. Ten percent shall be allocated and credited to a special trust fund, to be known as the resources trust fund, to be established in the state treasury and shall be deposited and invested as are other state funds to earn the maximum amount permitted by law, ~~provided that which income shall be deposited in the resources trust fund. Provided, the first fifteen million dollars allocated and credited to this--special~~ the resources trust fund shall be appropriated by the legislative assembly for Grafton state school for the remodeling or reconstruction and equipping of existing buildings and other facilities, for the construction and equipping of new buildings and other facilities, and for providing additional staffing for that institution, as shall be provided by the legislative assembly. ~~The principal of this special trust fund shall not be used for any other purpose, but the income therefrom shall be administered by the state industrial commission pursuant to appropriations made by the legislative assembly for the following.~~ The principal and income of the resources trust fund may be expended only pursuant to legislative appropriation and shall be available to:

- a. The state water conservation commission for planning for and construction of water supply facilities; and
- b. The industrial commission for the funding of programs for development of energy conservation and renewable energy sources; for studies for development of cogeneration systems that increase the capacity of a system to produce more than one kind of energy from the same fuel; for studies for development of waste products utilization; and for the making of grants and loans in connection therewith. Any income earned by the special trust fund that is not appropriated by the legislative assembly or if appropriated but not expended or loaned by the state industrial commission by the end of a fiscal biennium shall be transferred to the state's general fund.

SECTION 3. APPROPRIATION.

1. There is hereby appropriated from any moneys in the general fund the sum of \$983,000, or so much thereof as may be necessary, to the state water conservation commission for the biennium beginning July 1, 1981, and

ending June 30, 1983. This appropriation is not subject to the provisions of section 54-27-10.

2. The moneys appropriated by this section shall be used by the state water conservation commission to contract for preliminary designs for a water supply facility for supplementation of the water resources of Dickinson and the area of North Dakota south and west of the Missouri River with water supplies from the Missouri River for multiple purposes including domestic, rural water district, and municipal uses. The plan shall utilize a pipeline delivery system. The preliminary designs shall be submitted to the legislative council, or its designee, on or before October 1, 1982.
3. The state water commission may use all or any part of the moneys herein appropriated to match any federal funds available for such purposes.
4. The first nine hundred eighty-three thousand dollars allocated and credited to the resources trust fund, following the collection and transfer of fifteen million dollars as provided for in section 2 of this Act, shall be transferred by the state treasurer to the general fund.

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

Approved March 30, 1981

CHAPTER 614

SENATE BILL NO. 2185
(Committee on Finance and Taxation)
(At the request of the Tax Department)

"SPECIAL FUEL" DEFINED

AN ACT to amend and reenact subsection 4 of section 57-52-03, section 57-52-04, and subsection 3 of section 57-53-01 of the North Dakota Century Code, relating to the taxation of agriculturally derived fuels.

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

SECTION 1. AMENDMENT. Subsection 4 of section 57-52-03 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles and shall include all gases and liquids which meet the specifications as determined by the state laboratories department pursuant to the provisions of section 19-10-10, as well as all liquids determined by the state laboratories department to be heating oil pursuant to the provisions of section 19-10-10, and agriculturally derived alcohol if used in a pure state or if blended with another agriculturally derived liquid, except that it does not include either motor vehicle fuels as defined in section 57-54-03, or antifreeze as defined by section 19-16.1-02.

SECTION 2. AMENDMENT. Section 57-52-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-04. TAX IMPOSED - EXEMPTIONS. There is hereby levied and imposed an excise tax of eight cents per gallon [3.79 liters] on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, or railroad purposes or for industrial purposes other than in the performance of a contract with any unit of government shall be exempt from the tax imposed by this chapter, provided that the sale

or delivery of special fuel for use in a motor vehicle shall not be exempt. Provided, however, the tax imposed by this section on agriculturally derived alcohol if used in a pure state or if blended with another agriculturally derived liquid shall be four cents per gallon. Said tax shall attach at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state tax commissioner as hereinafter provided. Except as prohibited by section 57-50-05.1, the tax imposed herein shall be refundable when used for nonhighway purposes, and the provisions and procedures of chapter 57-50 relating to the refund of motor fuel taxes shall apply to the tax imposed by this chapter, provided that the amount refunded for any special fuel shall not include the amount of tax imposed by section 57-53-02 on the sale of that fuel.

SECTION 3. AMÉNDMENT. Subsection 3 of section 57-53-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles and shall include all gases and liquids which meet the specifications as determined by the state laboratories department pursuant to the provisions of section 19-10-10, as well as all liquids determined by the state laboratories department to be heating oil pursuant to the provisions of section 19-10-10, and agriculturally derived alcohol if used in a pure state or if blended with another agriculturally derived liquid, except that it does not include either motor vehicle fuel defined in section 57-54-03, or antifreeze as defined by section 19-16.1-02.

Approved March 11, 1981

CHAPTER 615

HOUSE BILL NO. 1424
(Conmy)

SPECIAL FUELS TAX ON BLENDED FUEL

AN Act to provide a four-cent per gallon tax on diesel fuel blended with recovered oil.

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

SECTION 1. TEMPORARY TAX ON CERTAIN BLENDED FUELS.
Notwithstanding section 57-52-04, from July 1, 1981, through June 30, 1983, the tax imposed on fuel consisting of a blend of diesel fuel and not less than twenty percent recovered oil shall be four cents per gallon.

Approved March 31, 1981

CHAPTER 616

SENATE BILL NO. 2182
(Committee on Finance and Taxation)
(At the request of the Tax Department)

FUEL DEALER'S BOND AND METHANOL TAX RATE

AN ACT to amend and reenact sections 57-52-06, 57-54-05, and 57-54-08 of the North Dakota Century Code, relating to the special and motor fuels tax bonding requirements, and the imposition of the motor fuel tax.

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

SECTION 1. AMENDMENT. Section 57-52-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-06. SPECIAL FUEL DEALER'S BOND.

1. Except as hereinafter provided no special fuel dealer's license shall be issued to any person or continued in force unless such person has furnished a surety bond in such form and amount as the state tax commissioner shall require, but not less than the amount of five hundred dollars, to secure his compliance with this chapter and the payment of all taxes, interest, and penalties due or to become due hereunder.
2. The state tax commissioner may, at his discretion, waive the filing of a bond if, upon investigation, he finds such bond may be waived without impairing or jeopardizing the revenue collections of this state, or in lieu of such bond, securities, including letters of credit, approved by the tax commissioner in such amounts as he may prescribe, may be deposited with him, which securities shall be kept in the custody of the tax commissioner and may be sold by him at public or private sale, without notice to the depositor thereof, if it becomes necessary so to do in order to recover any tax, penalties or interest due. All moneys deposited as security with the tax commissioner under the provisions of this subsection shall be paid by the tax commissioner to the state treasurer and shall be credited by the treasurer into a special fund to be known as the "special fuels tax security trust fund". If any

tax, penalty or interest imposed by this chapter is not paid when due, by the person depositing moneys with the tax commissioner as security for the payment of tax, penalty or interest imposed by this chapter, the tax commissioner shall certify that information to the director of accounts and purchases who shall transmit the money to the tax commissioner who shall apply the money deposited by the person so much thereof as is necessary to satisfy the tax, penalty, and interest due. The tax commissioner when in his judgment it is no longer necessary to require the deposit to be maintained by the person, shall certify that information to the director of accounts and purchases who shall pay the unused money to the person entitled thereto.

SECTION 2. AMENDMENT. Section 57-54-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-05. FORM AND CONTENTS OF APPLICATION FOR DEALER'S LICENSE - FEE - BOND. To procure a license as a dealer in motor vehicle fuel, an applicant shall file with the state tax commissioner an application upon a form prescribed and furnished by the state tax commissioner. Such application shall contain:

1. The name under which the applicant intends to transact business₇.
2. If a partnership, the name and address of each of the several persons constituting the firm₇.
3. If a domestic corporation, the corporate name, the date of incorporation, and the names of the directors and corporate officers₇.
4. If a foreign corporation, the corporate name, the state where and the time when incorporated, the name of the resident agent, the location of each place of business, and the date on which such business was established₇--and₇.
5. Any other information the state tax commissioner may require. Such application shall be signed and verified by the owner of the business, if an individual, partnership, or unincorporated association, and by any authorized officer, if a corporation. At the time of applying for a license, the applicant shall pay to the state tax commissioner as a license fee the sum of two dollars. Such fee shall be paid into the state treasury and credited to the general fund.
6. The state tax commissioner, if he deems it necessary, may require a dealer, as a condition precedent to the issuance of a license, to furnish a bond guaranteeing the payment of the motor fuel tax collected by the dealer in an amount

not less than one thousand dollars. Such bond shall be subject to approval by the state tax commissioner.

7. In lieu of such bond, securities, including letters of credit, approved by the tax commissioner in such amounts as he may prescribe, may be deposited with him, which securities shall be kept in the custody of the tax commissioner and may be sold by him at public or private sale, without notice to the depositor thereof, if it becomes necessary so to do in order to recover any tax, penalties or interest due. All moneys deposited as security with the tax commissioner under the provisions of this subsection shall be paid by the tax commissioner to the state treasurer and shall be credited by the treasurer into a special fund to be known as the "motor vehicle fuel tax security trust fund". If any tax, penalty or interest imposed by this chapter is not paid when due, by the person depositing moneys with the tax commissioner as security for the payment of tax, penalty or interest imposed by this chapter, the tax commissioner shall certify that information to the director of accounts and purchases who shall transmit the money to the tax commissioner who shall apply the money deposited by the person or so much thereof as is necessary to satisfy the tax, penalty, and interest due. The tax commissioner, when in his judgment it is no longer necessary to require the deposit to be maintained by the person, shall certify that information to the director of accounts and purchases who shall pay the unused money to the person entitled thereto.

SECTION 3. AMENDMENT. Section 57-54-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-08. TAX IMPOSED ON MOTOR VEHICLE FUELS - TAX REDUCED FOR AGRICULTURALLY DERIVED ALCOHOL-BLENDED FUELS. There is hereby imposed a tax of eight cents per gallon [3.79 liters] on all motor vehicle fuel sold or used in this state. Provided, however, the tax imposed by this section on gasoline sold which contains a minimum ten percent blend of an agricultural ethyl alcohol or methanol whose purity is at least ninety-nine percent alcohol shall be four cents per gallon [3.79 liters]. The tax imposed by this section shall be collected by the dealer from the consumer on all sales. Sales of fuel in the original package may be made to a licensed dealer, and he shall have the option of collecting the tax imposed by this chapter, but on sales in the original package to persons other than licensed dealers, the dealer shall be liable for the tax thereon.

Approved March 5, 1981

CHAPTER 617

SENATE BILL NO. 2178
(Committee on Finance and Taxation)
(At the request of the Tax Department)

COAL CONVERSION FACILITY PRIVILEGE TAX

AN ACT to create and enact a new section to chapter 57-60, relating to refunds of overpayments; and to amend and reenact sections 57-60-04, 57-60-05, 57-60-08, and 57-60-11 of the North Dakota Century Code, relating to payment, assessment, and refund of taxes for coal conversion facilities and to hearings and appeals in connection therewith.

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

SECTION 1. AMENDMENT. Section 57-60-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-04. PAYMENT OF TAXES ON FOR PLANTS OTHER THAN ELECTRICAL GENERATING PLANTS - WHEN TAXES DUE - WHEN DELINQUENT.

1. The taxes imposed by this chapter on operators of coal conversion facilities other than electrical generating plants shall be levied by the tax commissioner on or before April fifteenth of each year. Each operator of a coal conversion facility subject to the taxes imposed by subsections 1 and 3 of section 57-60-02 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 operator of a coal conversion facility subject to the taxes imposed by subsections 1 and 3 of section 57-60-02 of the amount of tax imposed. Any person aggrieved by the amount of tax levied against any facility by the commissioner 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 subsections 1 and 3 of section 57-60-02 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 57-60-09.

SECTION 2. AMENDMENT. Section 57-60-05 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-05. PAYMENT OF TAXES ON ELECTRICAL GENERATING PLANTS - WHEN TAXES DUE - WHEN DELINQUENT. The taxes imposed by this chapter on operators of 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 57-60-02, in such form as the commissioner shall prescribe, to provide such information as the commissioner deems necessary for the proper administration of this chapter.

SECTION 3. AMENDMENT. Section 57-60-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-08. COMMISSIONER TO COMPUTE TAX ON INCORRECT RETURNS OR OMITTED REPORTS.

1. 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 or has failed to make the required report, the commissioner shall ascertain the correct amount of taxes due, and give immediate written notice to the person filing the incorrect ~~return~~ report or remittance or who failed to file the required report. Any person receiving notice from the commissioner that he has filed an incorrect ~~return~~ report or remittance or failed to file the required report shall remit the tax assessed by the commissioner within fifteen days of such notice unless within fifteen days of the notice such person makes application in writing to the commissioner for a hearing

under chapter 28-32 before the commissioner. The tax shall become delinquent if within fifteen days of the notice it is not paid or an application for a hearing is not made. 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 decision of the commissioner pursuant to chapter 28-32 shall, if not paid, become delinquent five days after the conclusion of the hearing time for appeal from the commissioner's decision has expired, except in such cases where a person shall appeal such assessment that if an appeal from the commissioner's decision is taken to the district court of Burleigh County, in which case they such taxes, if not paid, shall become delinquent five days following final judicial determination.

2. If a person has filed an incorrect report or has failed to file a report as required by this chapter, the commissioner shall have six years from the date that the report was first due within which to give the notice provided in subsection 1 of taxes due, except that where false or fraudulent information is given in a report or where the failure to file a report is due to the fraudulent intent or the willful attempt of the taxpayer in any manner to evade the tax, no time limitation for giving the notice of taxes due shall apply.

SECTION 4. AMENDMENT. Section 57-60-11 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-11. APPEAL FROM DECISION OF TAX COMMISSIONER. Any person aggrieved because of any action or decision of the commissioner under the provisions of this chapter may ~~appeal therefrom~~ within fifteen days of written notification thereof from the commissioner make application in writing to the commissioner for a hearing to be governed by the provisions of chapter 28-32 and may appeal the commissioner's decision following such hearing to the district court of Burleigh County as provided in chapter 28-32.

SECTION 5. A new section to chapter 57-60 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

REFUND OF OVERPAYMENTS. If it shall appear that as a result of a mistake an overpayment of a tax, penalty, or interest was made which was not due under the provisions of this chapter, then such amount shall be credited against any amount due under this chapter from the person who made the erroneous payment or shall be refunded

to such person, provided that the person entitled to the overpayment makes a written claim for it to the commissioner within six years after the date the overpayment was received by the commissioner. If a refund is authorized by the commissioner, he shall certify the amount of the refund, the reason for it, and the name of the person entitled to it to the department of accounts and purchases which shall thereupon draw a warrant for such amount on the funds to which the overpayment was credited.

Approved March 9, 1981

CHAPTER 618

SENATE BILL NO. 2239
(Senators Sorum, Bakewell, Wright)
(Representatives O. Hanson, Nagel, Houmann)

COAL SEVERANCE TAX EXEMPTION FOR SPACE HEATING

AN ACT to create and enact a new section to chapter 57-61 of the North Dakota Century Code to provide an exemption for coal used for space heating purposes and for coal used by the state and political subdivisions.

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

SECTION 1. A new section to chapter 57-61 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

SEVERANCE TAX EXEMPTION FOR COAL USED FOR SPACE HEATING PURPOSES AND BY THE STATE AND POLITICAL SUBDIVISIONS. No severance tax shall be imposed on coal used primarily for heating buildings in this state, including the heating of buildings with steam created by the burning of coal, nor shall any severance tax be imposed on coal used by the state or any political subdivision of the state. The coal mine owner or operator shall require the person purchasing the coal for heating of buildings, for resale to consumers for heating of buildings, or for use by the state or any political subdivision of the state to certify the amount of the coal purchased which will be used for heating purposes or by the state or any political subdivision. Coal used by a person, other than the state or a political subdivision of the state, who purchases the coal primarily for a purpose other than the heating of buildings or for the generation of electricity for multiple uses is not exempt from the severance tax.

Approved March 26, 1981

CHAPTER 619

SENATE BILL NO. 2180
 (Committee on Finance and Taxation)
 (At the request of the Tax Department)

COAL SEVERANCE TAX ASSESSMENT, PAYMENT, AND REFUND

AN ACT to create and enact a new section to chapter 57-61 of the North Dakota Century Code, relating to refunds of overpayments; and to amend and reenact sections 57-61-04, 57-61-05, 57-61-07, and 57-61-08 of the North Dakota Century Code, relating to returns, payments, assessment, and refund of taxes for coal severance tax purposes, and hearings and appeals in connection therewith.

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

SECTION 1. AMENDMENT. Section 57-61-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-61-04. TAX COMMISSIONER TO COMPUTE TAX ON INCORRECT OR
 OMITTED RETURNS.

1. The state tax commissioner shall have the power and authority to ascertain and determine whether or not any ~~repeat~~ return or remittances filed with him are correct, and if the owner or operator has made an untrue or incorrect ~~repeat~~ return or remittance or has failed to make the required return, 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 or who failed to file the required return. Any coal mine operator or owner receiving notice from the tax commissioner that he has filed an incorrect return or remittance or failed to file the required return shall remit the tax assessed by the commissioner within fifteen days of such notice unless within fifteen days of the notice such person makes application in writing to the commissioner for a hearing under chapter 28-32 before the commissioner. The tax shall become delinquent if within fifteen days of the notice it is not paid or an application for a hearing is not made. 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 decision of the commissioner pursuant to chapter 28-32 shall, if not paid, become delinquent five days after the conclusion of the hearing time for appeal from the commissioner's decision has expired, except in such cases where an owner or operator shall appeal such assessment that if an appeal from the commissioner's decision is taken to the district court of Burleigh County, in which case they such taxes if not paid shall become delinquent five days following final judicial determination.~~

2. If an owner or operator has filed an incorrect return or has failed to file a return as required by this chapter, the commissioner shall have six years from the date that the return was first due within which to give the notice provided in subsection 1 of taxes due, except that where false or fraudulent information is given in a return or where the failure to file a return is due to the fraudulent intent or the willful attempt of the owner or operator in any manner to evade the tax, no time limitation for giving the notice of taxes due shall apply.

* SECTION 2. AMENDMENT. Section 57-61-05 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-61-05. PENALTY ON DELINQUENCY - FAILURE TO FILE REPORTS RETURNS. Where the severance tax provided for in this chapter shall become delinquent, it shall, as a penalty for such delinquency, bear interest at the rate of eight percent per annum. If the quarterly ~~report~~ return 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~~ return 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 3. AMENDMENT. Section 57-61-07 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-61-07. APPEAL FROM DECISION OF TAX COMMISSIONER. Any person aggrieved because of any action or decision of the tax commissioner under the provisions of sections 57-61-01 through 57-61-08 may appeal within fifteen days of written notification thereof from the commissioner make application in writing to the

* NOTE: Section 57-61-05 was also amended by section 9 of House Bill No. 1198, chapter 583.

commissioner for a hearing to be governed by the provisions of chapter 28-32 and may appeal the commissioner's decision following such hearing to the district court of Burleigh County as provided in chapter 28-32.

SECTION 4. AMENDMENT. Section 57-61-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-61-08. 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~~ returns required hereunder and otherwise necessary to the enforcement of sections 57-61-01 through 57-61-08, 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~~ returns 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~~ returns 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 57-61-01 through 57-61-08.

SECTION 5. A new section to chapter 57-61 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

REFUND OF OVERPAYMENTS. If it shall appear that as a result of a mistake an overpayment of a tax, penalty, or interest was made which was not due under the provisions of this chapter, then such amount shall be credited against any amount due under the provisions of this chapter from the person who made the erroneous payment or shall be refunded to such person, provided that the person entitled to the overpayment makes a written claim for it to the state tax commissioner within six years after the date the overpayment was received by the commissioner. If a refund is authorized by the tax commissioner, he shall certify the amount of the refund, the reason for it, and the name of the person entitled to it to the department of accounts and purchases which shall thereupon draw a warrant for such amount on the funds to which the overpayment was credited.

Approved March 5, 1981

CHAPTER 620

HOUSE BILL NO. 1457
(Freborg)

COAL DEVELOPMENT FUND DEPOSIT AND ALLOCATION

AN ACT to amend and reenact section 57-61-10 and subsection 3 of section 57-62-02 of the North Dakota Century Code, relating to payments of coal severance tax revenues to the coal development fund and to the distribution of revenues within counties on a timely basis.

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

SECTION 1. AMENDMENT. Section 57-61-10 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-61-10. COAL DEVELOPMENT FUND ESTABLISHED. Moneys collected by the state tax commissioner pursuant to the provisions of sections 57-61-01 through 57-61-09 shall be paid to the state treasurer within fifteen days from the date they are received by the state tax commissioner 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 and such allocation shall occur within fifteen days from the date the moneys are received by the state treasurer from the state tax commissioner.

* SECTION 2. AMENDMENT. Subsection 3 of section 57-62-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Twenty percent shall be allocated to the coal-producing counties and shall be distributed among such counties in such proportion as the number of tons [metric tons] of coal severed in each county bears to the total number of tons [metric tons] of coal severed in the state during such quarterly period. Such allocations shall be apportioned by the county treasurer within fifteen days from the date the moneys are received from the state treasurer as follows:

* NOTE: Subsection 3 of section 57-62-02 was also amended by section 1 of House Bill No. 1512, chapter 623.

- a. If the tipple of a currently active coal mining operation in a county is not within fifteen miles [24.14 kilometers] of another county in which no coal is mined, the revenue apportioned according to this subsection shall be allocated as follows:
- (1) Thirty percent shall be paid by the county treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census.
 - (2) Forty percent shall be deposited by the county treasurer in the county general fund to be used for general governmental purposes.
 - (3) Thirty percent shall be apportioned by the county treasurer to school districts within the county on the average daily membership basis, as certified to him by the county superintendent of schools.
- b. If the tipple of a currently active coal mining operation in a county is within fifteen miles [24.14 kilometers] of another county in which no coal is mined, the revenue apportioned according to this subsection shall be allocated as follows:
- (1) Thirty percent shall be paid by the county treasurer of the coal-producing county to the incorporated cities of that county and to any city of a non-coal-producing county when any portion of the city lies within fifteen miles [24.14 kilometers] of the tipple of a currently active coal mining operation in the coal-producing county, based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census.
 - (2) Forty percent shall be divided by the county treasurer of the coal-producing county between the general fund of the coal-producing county and the general fund of any non-coal-producing county when any portion of the latter county lies within fifteen miles [24.14 kilometers] of the tipple of a currently active coal mining operation in the coal-producing county. The non-coal-producing county portion shall be based upon the ratio

which the assessed valuation of all quarter sections of land in that county, any portion of which lies within fifteen miles [24.14 kilometers] of the tippie of a currently active coal mining operation, bears to the combined assessed valuations of all land in the coal-producing county and the quarter sections of land in the non-coal-producing county within fifteen miles [24.14 kilometers] of the tippie of the currently active coal mining operation. It shall be the duty of the county director of tax equalization of the coal-producing county to certify to the treasurer of the same county the number of quarter sections of land in the non-coal-producing counties which lie at least in part within fifteen miles [24.14 kilometers] of the tippie of a currently active coal mining operation and their assessed valuations.

- (3) Thirty percent shall be apportioned by the county treasurer of the coal-producing county to school districts within that county and to school districts in adjoining non-coal-producing counties when a portion of those school districts' land includes any of the quarter sections of land certified by the director of tax equalization to the county treasurer to be eligible to share county funds as provided for in paragraph 2. The county superintendent of the non-coal-producing counties shall certify to the county treasurer of the coal-producing county the number of students actually residing on these quarter sections lying outside the coal-producing county and each school district in non-coal-producing counties shall receive a portion of the money under this paragraph based upon the ratio of the number of children residing on quarter sections of that school district within the fifteen mile [24.14 kilometer] radius of the tippie of a currently active coal mining operation to the total number of school children from the coal-producing county combined with all the school children certified to be living on quarter sections within fifteen miles [24.14 kilometers] of the tippie of a currently active coal mining operation in the coal-producing county.

Approved March 11, 1981

CHAPTER 621

HOUSE BILL NO. 1502
(Representatives Goetz, Timm)
(Senators R. Christensen, Wenstrom)

ENERGY DEVELOPMENT IMPACT OFFICE

AN ACT to amend and reenact section 57-62-01, subsections 1 and 2 of section 57-62-02, sections 57-62-03, 57-62-04, 57-62-05, and 57-62-06 of the North Dakota Century Code, providing for an energy development impact office and changing the name and powers of the coal development impact office.

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

SECTION 1. AMENDMENT. Section 57-62-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-62-01. DEFINITIONS. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Coal development" means the mining of coal and industries directly related to the processing of coal, including, but not limited to: the generation of electricity from coal or coal products, coal gasification, coal liquefaction, and the manufacture of fertilizer from coal.
2. "Impacted city" means a city which demonstrates actual or anticipated extraordinary expenditures caused by coal or oil and gas development and the growth incidental thereto.
3. "Impacted county" means a county which demonstrates actual or anticipated extraordinary expenditures caused by coal or oil and gas development and the growth incidental thereto.
4. "Impacted school district" means a public school district which demonstrates actual or anticipated extraordinary expenditures caused by coal or oil and gas development and the growth incidental thereto.
5. "Impacted taxing district" means a taxing district as defined in subsection 7 which demonstrates actual or

anticipated extraordinary expenditures caused by coal or oil and gas development and the growth incidental thereto.

6. "Oil and gas development" means the exploration for and production of oil and gas and industries directly relating to the refining or processing of the oil or gas.
7. "Taxing district" means any political subdivision, other than those included in subsections 2 through 4, empowered by law to levy taxes.

* SECTION 2. AMENDMENT. Subsections 1 and 2 of section 57-62-02 of the 1979 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Thirty-five percent shall be credited to a special fund in the state treasury for distribution through grants by the ~~coal~~ energy development impact office to coal impacted cities, counties, school districts, and other taxing districts, subject to appropriation by the legislative assembly.
2. Fifteen percent shall be ~~credited to a special~~ deposited in a permanent trust fund in the state treasury to, to be known as the coal development trust fund, pursuant to article X, section 21 of the Constitution of the State of North Dakota. Those funds held in trust and administered by the board of university and school lands on the effective date of this Act pursuant to section 12, chapter 563, 1975 Session Laws; section 12, chapter 560, 1977 Session Laws; or section 16, chapter 626, 1979 Session Laws shall also be deposited in the trust fund created pursuant to this subsection. The fund shall be held in trust to be administered by the board of university and school lands for loans to coal impacted counties, cities, and school districts as provided in section 57-62-03. The board of university and school lands shall have full authority to invest such funds as are not loaned as provided in this chapter and may consult with the state investment board as provided by law. The income, including interest payments on loans, from such trust shall be deposited in the state's general fund. Loan principal payments shall be redeposited in the trust fund. Such trust fund shall be perpetual and held in trust as a replacement for depleted natural resources subject to the provisions of this chapter.

SECTION 3. AMENDMENT. Section 57-62-03 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-62-03. LOANS - TERMS AND CONDITIONS - REPAYMENT. The board of university and school lands is authorized to make loans to coal development impacted counties, cities, and school districts

- * NOTE: Subsection 2 of section 57-62-02 was also amended by section 1 of Senate Bill No. 2190, chapter 622.

from moneys deposited in the coal development trust fund established by subsection 2 of section 57-62-02. Loans may be made for any purpose for which a grant may be made pursuant to this chapter, but before making any loan the board of university and school lands shall receive the recommendation of the coal energy development impact office. The board of university and school lands shall prescribe the terms and conditions of such loans within the provisions of this chapter and shall require a warrant executed by the governing body of the county, city, or school district as evidence of such loan. The warrants shall bear interest at a rate not to exceed six percent. The warrants shall be payable only from the allocations of moneys from the coal development fund to the borrowing county, city, or school district and shall not constitute a general obligation of the county, city, or school district nor shall such loans be considered as indebtedness of the county, city, or school district. The terms of the loan shall provide that not less than ten percent of each allocation made to the borrowing county, city, or school district pursuant to this chapter shall be withheld by the state treasurer to repay the principal of the warrants and the interest thereon. The amount withheld by the state treasurer as payment of interest shall be deposited in the general fund and the amount withheld by the state treasurer as payment of principal shall be remitted to the board of university and school lands and deposited by the board in the trust fund provided for in subsection 2 of section 57-62-02. The warrants executed by the county, city, or school district shall have all of the qualities and incidents of negotiable paper, and shall not be subject to taxation by the state of North Dakota or by any political subdivision thereof.

The board of university and school lands is authorized to sell such warrants to other parties and the proceeds of such sale which constitute principal shall be deposited in the coal development trust fund and that which constitutes interest in the general fund. If the future allocations of moneys to the borrowing county, city, or school district should, for any reason, permanently cease, the loan shall be canceled except that if the county, city, or school district is merged with another county, city, or school district which receives an allocation of moneys from the coal development fund, the surviving county, city, or school district shall be obligated to repay the loan from such allocation. If the loan is canceled due to the permanent cessation of allocations of moneys to the county, city, or school district pursuant to this chapter, the board of university and school lands shall cancel those warrants it holds from such county, city, or school district and shall pay from any moneys in the trust fund provided for in subsection 2 of section 57-62-02 the principal and interest, as it becomes due, on those warrants of the county, city, or school district which are held by another party.

SECTION 4. AMENDMENT. Section 57-62-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 5. AMENDMENT. Section 57-62-05 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-62-05. POWERS AND DUTIES OF COAL ENERGY DEVELOPMENT IMPACT DIRECTOR. The ~~coal~~ energy development impact director shall:

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

SECTION 6. AMENDMENT. Section 57-62-06 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-62-06. LEGISLATIVE INTENT AND GUIDELINES ON IMPACT GRANTS. The legislative assembly intends that the moneys appropriated to, and distributed by, the ~~coal~~ energy development impact office for

grants are to be used by grantees to meet initial impacts affecting basic governmental services, and directly necessitated by coal development and oil and gas development impact. As used in this section, "basic governmental services" do not include activities relating to marriage or guidance counseling, services or programs to alleviate other sociological impacts, or services or facilities to meet secondary impacts. All grant applications and presentations to the ~~coal~~ energy development impact office shall be made by an appointed or elected government official.

SECTION 7. LEGISLATIVE INTENT. It is the intent of the legislative assembly that any moneys appropriated to carry out the provisions of this Act be expended by the energy development impact office solely for grants to taxing districts for oil and gas development impact, and that these funds not be commingled with coal development impact moneys.

Approved March 31, 1981

CHAPTER 622

SENATE BILL NO. 2190
(Committee on Finance and Taxation)
(At the request of the Coal Development Impact Office)

COAL SEVERANCE TAX TRUST FUND

AN ACT to amend and reenact subsection 2 of section 57-62-02 of the North Dakota Century Code, relating to allocation of moneys in the coal development funds; and to declare an emergency.

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

* SECTION 1. AMENDMENT. Subsection 2 of section 57-62-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Fifteen percent shall be ~~credited--to~~ deposited in a special permanent trust fund in the state treasury ~~to~~ pursuant to article X, section 21 of the Constitution of the State of North Dakota. Those funds held in trust and administered by the board of university and school lands on the effective date of this Act pursuant to section 12, chapter 563, 1975 Session Laws; section 12, chapter 560, 1977 Session Laws; or section 16, chapter 626, 1979 Session Laws shall also be deposited in the trust fund created pursuant to this subsection. The fund shall be held in trust ~~to--be~~ and administered by the board of university and school lands for loans to impacted counties, cities, and school districts as provided in section 57-62-03. The board of university and school lands shall have full authority to invest such funds as are not loaned out as provided in this chapter and may consult with the state investment board as provided by law. The income, including interest payments on loans, from such the trust shall be used first to replace uncollectable loans made from the fund and the balance shall be deposited in the state's general fund. Loan principal payments shall be redeposited in the trust fund. Such trust fund shall be perpetual and held in trust as a replacement for depleted natural resources subject to the provisions of this chapter.

* NOTE: Subsection 2 of section 57-62-02 was also amended by section 2 of House Bill No. 1502, chapter 621.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval and shall apply to all funds deposited in the coal development fund and apportioned by the state treasurer on or after January 1, 1981.

CHAPTER 623

HOUSE BILL NO. 1512
(Representatives Martin, Knudson)
(Senator Quail)

COAL SEVERANCE TAX ALLOCATION DEFINITIONS

AN ACT to amend and reenact subsection 3 of section 57-62-02 of the North Dakota Century Code, relating to the allocation and distribution of coal severance tax moneys distributed to counties; and to declare an emergency.

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

* SECTION 1. AMENDMENT. Subsection 3 of section 57-62-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Twenty percent shall be allocated to the coal-producing counties and shall be distributed among such counties in such proportion as the number of tons [metric tons] of coal severed ~~in~~ at each county mining operation bears to the total number of tons [metric tons] of coal severed in the state during such quarterly period. Such allocations shall be apportioned as follows:
 - a. If the tipple of a the currently active coal mining operation in a county is not within fifteen miles [24.14 kilometers] of another county in which no coal is mined, the revenue apportioned according to this ~~subsection~~ subdivision shall be allocated as follows:
 - (1) Thirty percent shall be paid by the county treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census.
 - (2) Forty percent shall be deposited by the county treasurer in the county general fund to be used for general governmental purposes.

* NOTE: Subsection 3 of section 57-62-02 was also amended by section 2 of House Bill No. 1457, chapter 620.

- (3) Thirty percent shall be apportioned by the county treasurer to school districts within the county on the average daily membership basis, as certified to him by the county superintendent of schools.
- b. If the tipple of a currently active coal mining operation in a county is within fifteen miles [24.14 kilometers] of another county in which no coal is mined, the revenue apportioned from that coal mining operation according to this subsection shall be allocated, subject to the definitions of terms and the requirements in paragraph (4) of this subdivision, as follows:
- (1) Thirty percent shall be paid by the county treasurer of the coal-producing county to the incorporated cities of that county and to any city of a non-coal-producing county when any portion of the city lies within fifteen miles [24.14 kilometers] of the tipple of a the currently active coal mining operation in the coal-producing county, based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census.
- (2) Forty percent shall be divided by the county treasurer of the coal-producing county between the general fund of the coal-producing county and the general fund of any non-coal-producing county when any portion of the latter county lies within fifteen miles [24.14 kilometers] of the tipple of a the currently active coal mining operation in the coal-producing county. The non-coal-producing county portion shall be based upon the ratio which the assessed valuation of all quarter sections of land in that county, any portion of which lies within fifteen miles [24.14 kilometers] of the tipple of a the currently active coal mining operation, bears to the combined assessed valuations of all land in the coal-producing county and the quarter sections of land in the non-coal-producing county within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation. It shall be the duty of the county director of tax equalization of the coal-producing county to certify to the treasurer of the same county the number of quarter sections of land in the non-coal-producing counties which lie at least in part within fifteen miles [24.14 kilometers] of

the tipple of a the currently active coal mining operation and their assessed valuations.

- (3) Thirty percent shall be apportioned by the county treasurer of the coal-producing county to school districts within that county and to school districts in adjoining non-coal-producing counties when a portion of those school districts' land includes any of the quarter sections of land certified by the director of tax equalization to the county treasurer to be eligible to share county funds as provided for in paragraph 2. The county superintendent of the non-coal-producing counties shall certify to the county treasurer of the coal-producing county the number of students actually residing on these quarter sections lying outside the coal-producing county and each school district in non-coal-producing counties shall receive a portion of the money under this paragraph based upon the ratio of the number of children residing on quarter sections of that school district within the fifteen mile [24.14 kilometer] radius of the tipple of a currently active coal mining operation to the total number of school children from the coal-producing county combined with all the school children certified to be living on quarter sections within fifteen miles [24.14 kilometers] of the tipple of a the currently active coal mining operation in the coal-producing county.

(4) For the purposes of this subdivision:

- (a) The terms "currently active coal mining operation in a county", "currently active coal mining operation in the coal-producing county", and "currently active coal mining operation" mean a coal mining operation that produces more than one hundred fifty thousand tons [metric tons] of coal in a coal-producing county during the quarterly period.
- (b) The term "coal-producing county" means a county in which more than one hundred fifty thousand tons [metric tons] of coal are mined in the quarterly period.
- (c) The term "another county in which no coal is mined" means a county in which not more than seventy-five thousand tons [metric tons] of coal are mined in the quarterly period.

- (d) The terms "non-coal-producing county" and "non-coal-producing counties" mean any county in which not more than seventy-five thousand tons [metric tons] of coal are mined in the quarterly period.
- (e) In computing each amount to be paid as provided in paragraph (1), (2), or (3) of this subdivision for coal severance tax revenue from coal mined during a quarterly period, the treasurer of the coal-producing county shall deduct from the allocation the amount of coal severance tax revenue, if any, that the governmental body in the non-coal-producing county received from the coal mined in the non-coal-producing county during the same quarterly period.

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

Approved March 31, 1981