

NORTH DAKOTA ADMINISTRATIVE CODE

Supplement 13

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**Prepared by the Legislative Council staff
for the
Administrative Rules Committee**

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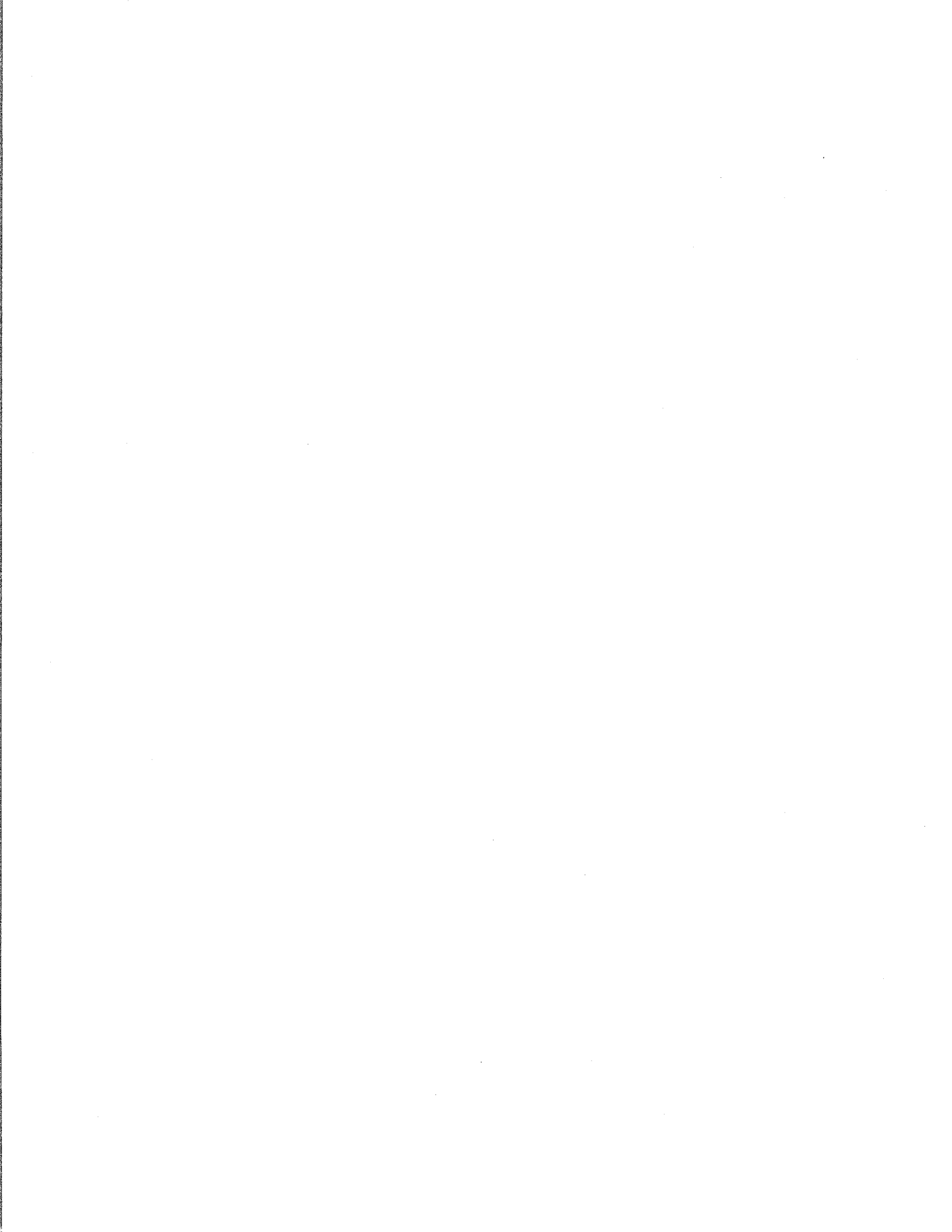
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TITLE 13

BANKING AND FINANCIAL INSTITUTIONS, DEPARTMENT OF

ARTICLE 13-02

BANKING AND SAVINGS AND LOAN ASSOCIATIONS

Chapter

13-02-01	Maximum Rates of Interest Payable by State Banking Associations on Time and Savings Deposits
13-02-02	Bank Reserves
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13-02-04	Mailing of Monthly Statements of Banks
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13-02-06	Establishment of Customer Electronic Funds Transfer Centers
13-02-07	Branch Offices - State-Chartered Savings and Loan Associations

CHAPTER 13-02-01

MAXIMUM RATES OF INTEREST PAYABLE BY STATE BANKING ASSOCIATIONS ON TIME AND SAVINGS DEPOSITS

Section

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13-02-01-05	Individual Retirement Account and KEOGH (H.R. 10) Plan Deposits of Less than One Hundred Thousand Dollars
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<u>13-02-01-07</u>	<u>Time Deposits of Less Than One Hundred Thousand Dollars With Maturities of Four Years or More</u>

13-02-01-02. FIXED CEILING TIME DEPOSITS OF LESS THAN ONE HUNDRED THOUSAND DOLLARS.

1: Except as provided in sections 13-02-01-01, 13-02-01-04, 13-02-01-05 and, 13-02-01-06, and ~~subsections--2--through--4--of--this--section~~ 13-02-01-07, no state banking association shall pay interest per annum on any time deposit at a rate in excess of the applicable rate under the following schedule:

MATURITY	MAXIMUM PERCENT
30 days or more but less than 90 days	5
90 days or more but less than 1 year	5 1/2
1 year or more but less than 30 months	6
30 months or more but less than 4 years	6 1/2
<u>4 years or more but less than 6 years</u>	<u>7 1/4</u>
<u>6 years or more but less than 8 years</u>	<u>7 1/2</u>
<u>8 years or more</u>	<u>7 3/4</u>

~~2:--State--banking--associations--may--pay--interest--on--any--time--deposit--of--one--thousand--dollars--or--more;--with--a--maturity--of--four--years--or--more;--at--a--rate--not--to--exceed--seven--and--one--fourth--percent:~~

~~3:--State--banking--associations--may--pay--interest--on--any--time--deposit--of--one--thousand--dollars--or--more;--with--a--maturity--of--six--years--or--more;--at--a--rate--not--to--exceed--seven--and--one--half--percent:~~

~~4:--State--banking--associations--may--pay--interest--on--any--time--deposit--of--one--thousand--dollars--or--more;--with--a--maturity--of--eight--years--or--more--at--a--rate--not--to--exceed--seven--and--three--fourths--percent:~~

History: Amended effective July 1, 1979.

General Authority
NDCC 6-01-04

Law Implemented
NDCC 6-03-02,
6-03-63

13-02-01-03. SAVINGS DEPOSITS. No state banking association shall pay interest at a rate in excess of five and one-quarter percent on any savings deposit including. Provided, however, that no state banking association shall pay interest at a rate in excess of five percent on any savings deposits deposit that are is subject to negotiable orders of withdrawal, the issuance of which is authorized by federal law.

History: Amended effective July 1, 1979.

General Authority
NDCC 6-01-04

Law Implemented
NDCC 6-03-02,
6-03-63

13-02-01-04. GOVERNMENTAL UNIT TIME DEPOSITS OF LESS THAN ONE HUNDRED THOUSAND DOLLARS. Except as provided in sections 13-02-01-01 and, 13-02-01-06, and 13-02-01-07, no state banking association shall pay interest on any time deposit which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, the United States, any state of the United States, or any county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof, at a rate in excess of ~~the highest of any of the permissible rates that can be paid on time deposits under one hundred thousand dollars with a maturity in excess of six months (twenty-six weeks) by any federally insured commercial bank; mutual savings bank; or savings and loan institution~~ eight percent.

History: Amended effective July 1, 1979.

General Authority
NDCC 6-01-04

Law Implemented
NDCC 6-03-02,
6-03-63

13-02-01-05. INDIVIDUAL RETIREMENT ACCOUNT AND KEOGH (H.R. 10) PLAN DEPOSITS OF LESS THAN ONE HUNDRED THOUSAND DOLLARS. Except as provided in section sections 13-02-01-01 and 13-02-01-07, a state banking association may pay interest on any time deposit with a maturity of three years or more that consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or KEOGH (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) sections 401, 408, at a rate not in excess of ~~the highest of any of the permissible rates that can be paid on time deposits under one hundred thousand dollars with a maturity in excess of six months (twenty-six weeks) by any federally insured commercial bank; mutual savings bank; or savings and loan association~~ eight percent.

History: Amended effective July 1, 1979.

General Authority
NDCC 6-01-04

Law Implemented
NDCC 6-03-02,
6-03-63

13-02-01-06. VARIABLE-RATE TWENTY-SIX WEEK MONEY MARKET TIME DEPOSITS OF LESS THAN ONE HUNDRED THOUSAND DOLLARS. State Except as provided in section 13-02-01-01, state banking associations may pay interest on any non-negotiable nonnegotiable time deposits of ten thousand dollars or more, with a maturity of

six--months--(twenty-six weeks), at a rate not to exceed the rate established (auction average on a discount basis) for United States treasury bills with maturities of six--months twenty-six weeks issued on or immediately prior to the date of deposit. Rounding such rate to the next higher rate is not permitted. A state bank may not compound interest during the term of this deposit. A state bank may offer this category of time deposit to all depositors.

History: Amended effective July 1, 1979.

General Authority
NDCC 6-01-04

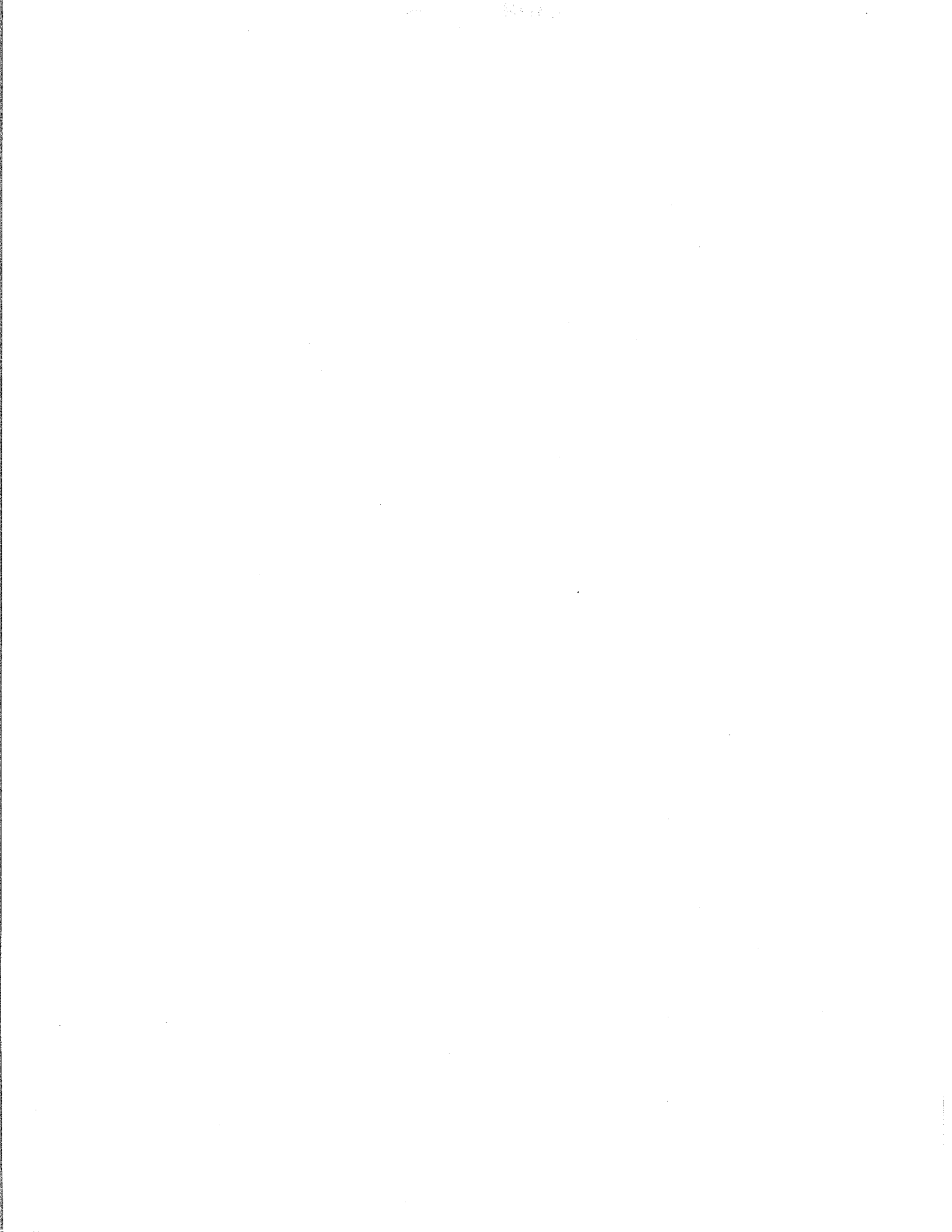
Law Implemented
NDCC 6-03-02,
6-03-63

13-02-01-07. TIME DEPOSITS OF LESS THAN ONE HUNDRED THOUSAND DOLLARS WITH MATURITIES OF FOUR YEARS OR MORE. Except as provided in sections 13-02-01-01 and 13-02-01-02, a state banking association may pay interest on any nonnegotiable time deposit with a maturity of four years or more that is issued on or after the first day of every month at a rate not to exceed one and one-quarter percent below the average four-year yield for United States treasury securities as determined and announced by the United States department of the treasury three business days prior to the first day of such month. The average four-year yield will be rounded by the United States department of the treasury to the nearest five basis points. A state bank may offer this category of time deposit to all depositors.

History: Effective July 1, 1979.

General Authority
NDCC 6-01-04

Law Implemented
NDCC 6-03-02,
6-03-63



TITLE 14

BARBER EXAMINERS, BOARD OF

STAFF COMMENT: The change in Title 14 adds a chapter caption which was omitted when the Code was published.

ARTICLE 14-04

GENERAL ADMINISTRATIVE RULES FOR
OPERATION OF BARBER SHOPS, SCHOOLS, AND COLLEGES

Chapter

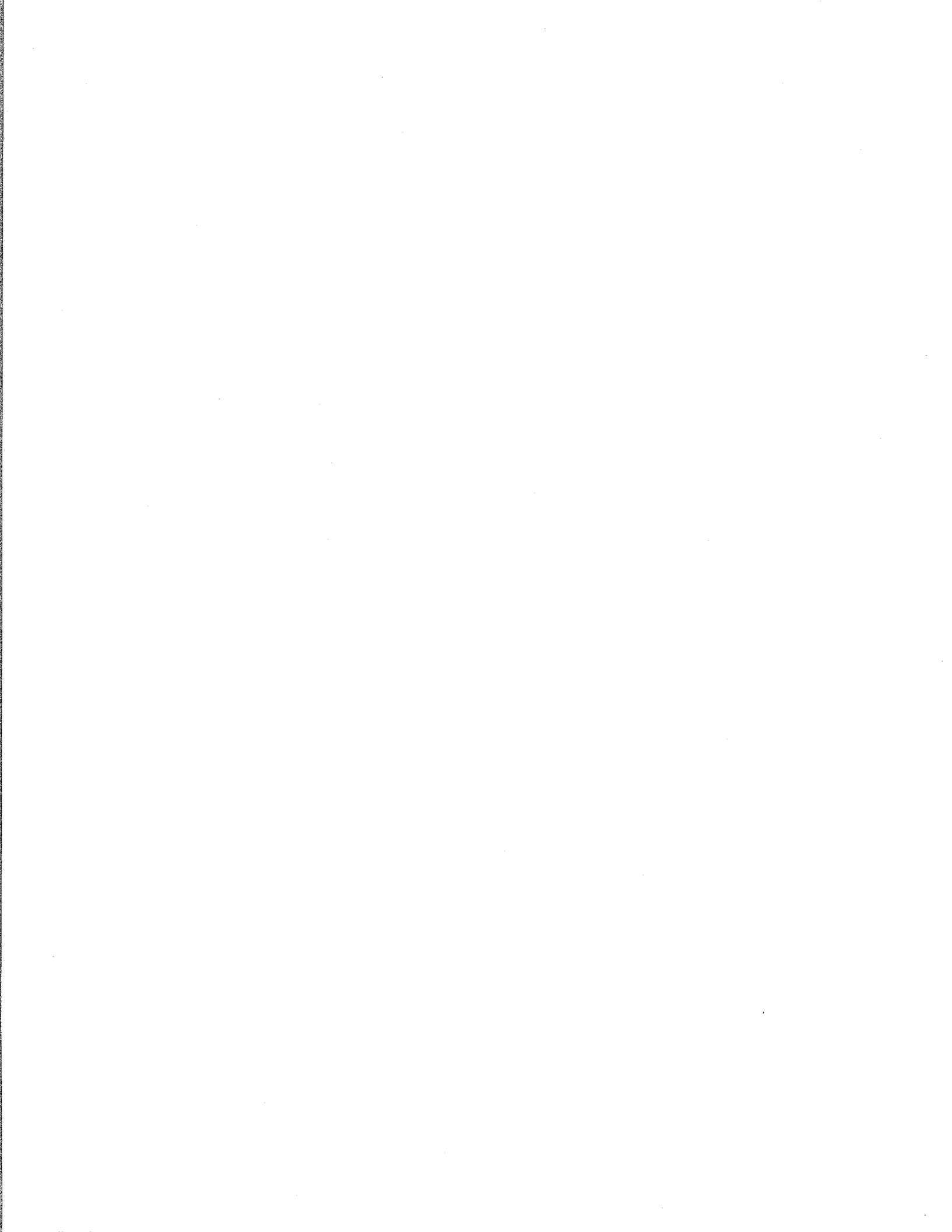
14-04-01	Shop License and Records
14-04-02	Display and Possession of Regulations and Price Lists
14-04-03	Sunday Service
14-04-04	Equipment, Staff, and Notification Requirements

CHAPTER 14-04-01

SHOP LICENSE AND RECORDS

Section

14-04-01-01	Shop License
14-04-01-02	Shop Records



TITLE 75
SOCIAL SERVICE BOARD

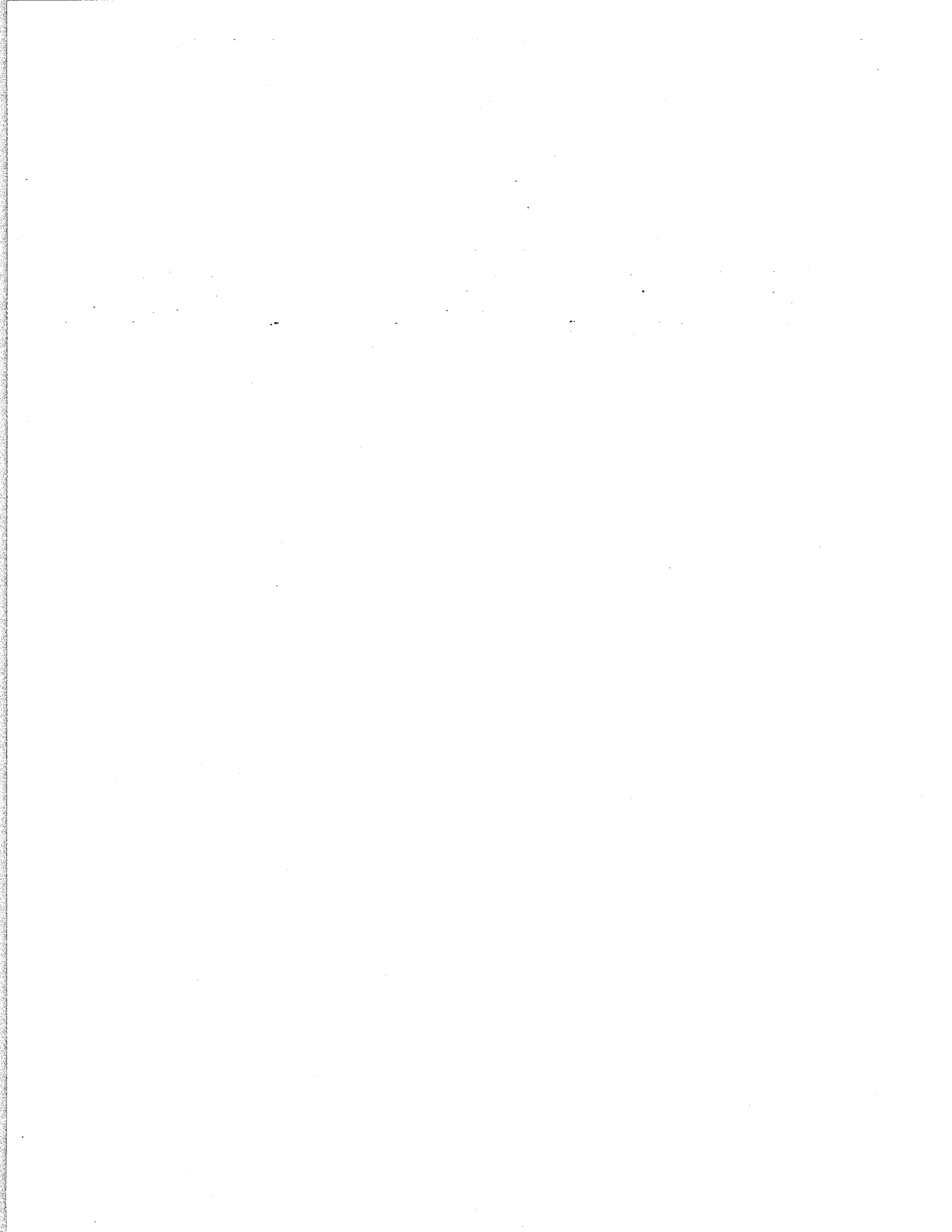
STAFF COMMENT: Chapters 75-01-03 and 75-02-04 contain all new material.

ARTICLE 75-01
GENERAL ADMINISTRATION

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75-01-01	Organization of Board
75-01-02	Confidentiality and the Safeguarding of Information
<u>75-01-03</u>	<u>Complaints and Hearings</u>

CHAPTER 75-01-01
ORGANIZATION OF THE BOARD

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CHAPTER 75-01-03
COMPLAINTS AND HEARINGS

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75-01-03-17	Continuance for Additional Evidence
75-01-03-18	Withdrawal or Abandonment
75-01-03-19	Disposition of Fair Hearing Matters
75-01-03-20	Review of Determinations Affecting Skilled Nursing Facilities and Intermediate Care Facilities
75-01-03-21	Submission of Proposed Decision
75-01-03-22	Decision by Board
75-01-03-23	Notice of Decision
75-01-03-24	Preservation of Record
75-01-03-25	Rehearing

75-01-03-01. DEFINITIONS. In this chapter, unless the context or subject matter requires otherwise:

1. "Administrative fraud hearing" means an administrative procedure established pursuant to federal regulation (7 C.F.R. 273.16) and to subsection 18 of North Dakota Century Code section 50-06-05.1, providing a manner of determining whether or not fraud was committed.

2. "Administrative hearing officer" means a person designated by the executive director of the board to conduct fair hearings and administrative fraud hearings and to prepare recommendations.
3. "Appeal" means a specialized type of complaint in which the dissatisfied applicant, recipient, registrant or licensee makes a specific request for review by the board, of a decision, made by the county agency, by the board, or by a division thereof.
4. "ATP" means authorization to participate and refers to a document to a household certified for the purchase of food stamp coupons.
5. "Authorized representative" means an individual, including an attorney at law, who has been authorized in writing by the claimant or is authorized in person by the claimant at the hearing to act for and represent the claimant in any and all aspects of the fair hearing. The written authorization is any statement addressed to the executive director signed by the claimant, which names the individual authorized to act for the claimant. The claimant need not designate an authorized representative, and may represent oneself at all stages of the fair hearing process.
6. "Board" means the social service board of North Dakota.
7. "Claimant" means a person who has requested a fair hearing and is either:
 - a. An applicant for aid, services, registration or licensing;
 - b. A recipient of aid or services;
 - c. A holder of a registration certificate or license; or
 - d. A representative or heir of a deceased applicant or recipient.
8. "Complaint" means any expression of dissatisfaction by or on behalf of an applicant for or a recipient of public assistance, medical assistance, food stamps or services, by or on behalf of an applicant seeking registration of or licensing for the provision of any service where such registration or licensing is the responsibility of a county social service board or a division of the social service board of North Dakota, or by or on behalf of anyone so registered or licensed, concerning any action or nonaction on his or her case by a county social service board or by the social service board of North Dakota.
9. "County agency" means a county social service board.

10. "Fair hearing" means an administrative procedure established pursuant to federal regulations (7 C.F.R. 275.15, 45 C.F.R. 205.10, and 45 C.F.R. 1361.46) and to North Dakota Century Code chapter 28-32, providing a dissatisfied claimant an opportunity to present the claimant's case directly to the social service board of North Dakota for formal decision.
11. "Filing date" of the claimant's request for a fair hearing, in all cases except food stamp appeals, means the date the claimant mails or delivers the request to the office of the executive director of the board. The filing date of a request for fair hearing in food stamp matters means the date the request is received in the office of the executive director of the board.
12. "Fraud" means any action by an individual to knowingly, willfully, and with deceitful intent:
 - a. Intentionally create a false impression or make a false statement to the county agency, to the board, or to a division of the board, either orally or in writing, to obtain benefits to which the claimant is not entitled;
 - b. Conceal information to obtain benefits to which the claimant is not entitled;
 - c. Alter ATP's to obtain benefits to which the household is not entitled;
 - d. Use coupons to buy expensive or conspicuous nonfood items;
 - e. Use or possess improperly obtained coupons or ATP's; or
 - f. Trade or sell coupons or ATP's.
13. "Household" means an individual or group of individuals receiving or applying for food stamp benefits.
14. "Regional office" means the regional office of the division of vocational rehabilitation in all cases of appeals from decisions of that division. In all other cases "regional office" means the area social service center/human service center.
15. "Request for administrative review" means a clear expression of dissatisfaction with a decision of the division of vocational rehabilitation which sets forth the reasons for dissatisfaction and which is filed with the executive director of the division of vocational rehabilitation in the manner provided for such requests. Such a request must be made and acted upon before a request for a fair hearing can be accommodated.

16. "Request for an administrative fraud hearing" means a written statement from a county agency, filed at the office of the appeals referee supervisor, which contains the name, mailing address, and telephone number (if any) of the charged household members, a detailed statement of charges against household members, and copies of all available evidence. The filing date of the county agency's request for an administrative fraud hearing is the date the agency mails or otherwise submits such request to the office of the appeals referee supervisor.

17. "Request for fair hearing" means any clear written expression from a claimant, or the claimant's duly authorized representative, filed in the office of the executive director of the board, that the claimant wants the board to take action concerning the claimant's expressed reasons for dissatisfaction.

History: Effective September 1, 1979.

General Authority
 NDCC 28-32-02,
 50-06-05.1

Law Implemented
 NDCC 50-06-01,
 50-06-05.1,
 50-09-01,
 7 CFR 271.2,
 273.15,
 273.16,
 45 CFR 205.10

75-01-03-02. DIVISION OF VOCATIONAL REHABILITATION DETERMINATIONS
 - ADMINISTRATIVE REVIEW PROCEDURES.

1. "Request for administrative review" forms are to be kept available in each regional office. This form will be given to any client or applicant that indicates a desire to appeal a decision. If the request results from a dissatisfaction over a decision, the appeal must be filed within thirty days of the receipt of written notice of such decision. However, appeals can be made because of a delay in decision at any time.

2. It is the duty of the regional office to assist the client in the preparation of this form if requested to do so. If so requested, the information which the client desires to have reported on the form as the grounds for appeal should be reported thereon as the client desires to have it reported.

3. Upon the client's request for the form on which the client may request administrative review, the client should be furnished three copies of the form. The client retains one copy and files the original and one copy with either the regional

office or the state office, whichever the client desires. The regional office, upon receipt of the original and one copy of the form from the client, will send the original to the state office; likewise, the state office will send the duplicate to the regional office upon receipt of the form in duplicate in the state office.

4. Upon receipt of the request for administrative review, an immediate acknowledgement shall be sent to the client by the regional administrator advising the client of the date, place, and hour set for the review. If possible, this notice should be preceded by a telephone call to the client to determine time and place convenient to the client. All decisions of administrative reviews with which the client is not satisfied will be further reviewed by the state director. This may be in the form of another meeting with the client or simply a review of the findings. If an individual case is of such a nature that a regional administrator has had direct involvement prior to a request for administrative review, the regional administrator may waive review at the regional level and request that the initial review be conducted by the state director or the director's designee.
5. The review is attended by the client or the client's representative and any witnesses the client may request to have present who are able to provide pertinent information concerning the facts in question and by representatives of the regional office and the state office who may have been concerned with the case.
6. The purpose of the review is to provide an opportunity for all persons who have pertinent information to be heard as promptly as possible.
7. The state director shall be promptly furnished a record of proceedings after the administrative review has been held by the regional administrator. This will include date, time, and place, who was present and all pertinent information developed as well as the administrator's decision.
8. The client will promptly be notified in writing of the administrator's decision. Information is to be included in the letter that further review will be carried out by the state director. The client is to be informed that redress will be considered by the state director if the client is not satisfied.
9. If a client decides to withdraw a review request, the form, "Notice of Decision not to Appeal" should be signed by the client. The client's acknowledgement of satisfactory adjustment or other reasons for withdrawal should be stated and the form mailed to the state office.

10. Upon completion of administrative reviews and review by the state director, the client is entitled to a fair hearing by the social service board of North Dakota if the administrative review is not to the client's satisfaction.

History: Effective September 1, 1979.

General Authority
NDCC 50-06-05.1,
50-06.1-04

Law Implemented
NDCC 50-06.1-10

75-01-03-03. RIGHT TO FAIR HEARING.

1. An opportunity for a fair hearing is available to any applicant, recipient, registrant, or licensee who request a hearing in the manner set forth in this chapter and who is dissatisfied because one's application was denied or not acted upon with reasonable promptness, county agency action has resulted in the suspension, reduction, discontinuance, or termination of one's assistance; who is dissatisfied with any action of the board or a division thereof relating to one's application for or receipt of aid, services, registration or licensing, or who is dissatisfied with a determination of the division of vocational rehabilitation made in an administrative review.
2. Because the board may, on its own motion, review individual cases and make determinations which are binding upon the county agency, an applicant or recipient aggrieved by such determination shall upon request be afforded the opportunity for a fair hearing. All references in this chapter to appeals from decisions of county agencies shall be understood to include appeals taken from determinations made by the board or by divisions thereof.
3. A fair hearing request may be denied or dismissed where the sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients.
4. The claimant may first seek corrective or other appropriate action from the claimant's county agency before filing a request for a fair hearing with the executive director of the board. A dissatisfied claimant of the services of the division of vocational rehabilitation must request and obtain an administrative review before the request for a fair hearing can be accommodated. A dissatisfied claimant is not otherwise required to seek that action before filing the request for a fair hearing.

5. If a claimant dies after a request for a fair hearing has been filed by the claimant, and before the decision of the board has been rendered in the case, the proceedings may be continued on behalf of the claimant's estate, or by an heir of the claimant if a legal representative has not been duly appointed.
6. If a dissatisfied claimant dies before the claimant can file a request for a fair hearing, the duly appointed representative of the claimant's estate, or any heir of the claimant if no representative has been appointed, may file such request when the claimant was dissatisfied with the denial of the claimant's application for assistance, or was dissatisfied with the amount of the assistance the claimant was receiving prior to the claimant's death.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDCC 50-09-14,
50-11-08,
50-11.1-10,
50-12-12,
50-18-03,
50-19-13,
7 CFR 273.15,
45 CFR 205.10

75-01-03-04. WITHDRAWAL OF REQUEST FOR FAIR HEARING BEFORE DECISION.

1. The claimant may withdraw the claimant's request for fair hearing at any time before a decision is made by the board.
2. In cases where there appears to be a possibility for corrective action without further fair hearing proceedings, the claimant may file a conditional withdrawal of the claimant's request for a fair hearing. Such conditional withdrawal will not prohibit the claimant from filing a new request for a fair hearing if the claimant remains dissatisfied with any such corrective action. No hearing shall be delayed or canceled because of this possibility unless the claimant consents to such delay.

3. The county agency shall provide the claimant with all information and assistance regarding this withdrawal procedure.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
7 CFR 273.15
(j)(2),
45 CFR 205.10
(a)(5)(v)

75-01-03-05. CLAIMANT RESPONSIBILITY.

1. The claimant must request a fair hearing in writing. The request may be filed on the back of a form 599 which gave notice of the proposed action which the claimant disputes; however, the request need not be in any particular form. The county agency shall assist the claimant in filing the claimant's request for a fair hearing. A printed form provided by the board for such request may be given the claimant by the county agency upon the claimant's request for such action.
2. For the purpose of prompt action, the claimant shall be informed by the county agency that the claimant's request for a fair hearing should identify the aid program involved as well as the reason for the claimant's dissatisfaction with the particular action involved in the case.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDCC 28-32-05

75-01-03-06. TIME LIMIT ON REQUEST FOR FAIR HEARING.

1. The request for fair hearing by a household aggrieved by any action of a county agency that affects participation in the food stamp program must be filed within ninety days after the order or action with which the claimant is dissatisfied. In all other cases, the request for fair hearing must be filed within thirty days after the order or action with which the claimant is dissatisfied.

The date of the order or action on which the request for fair hearing is based shall be the date on which notice of such order or action was mailed to the claimant with the following exceptions:

- a. Where requests for a fair hearing concern the return of erroneous repayments, the date of collection or the date of the last installment payment is the determining date.
 - b. Where requests for a fair hearing concern the amount of the grant, the request must be filed within thirty days, but the period of review will extend back to the first of the month on which the first day of the thirty-day period occurred.
 - c. When the claimant is aggrieved by an action of the division of vocational rehabilitation, the date in which the final decision of the state director on the claimant's request for administrative review is mailed to the claimant shall be the determining date.
2. In computing any period of time prescribed or allowed by this chapter, the day of the act, event, or determination from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDRCivP Rule 6(a)

75-01-03-07. EXPLANATION OF RIGHT TO FAIR HEARING.

1. The county agency or regional office must explain the right to request a fair hearing, as well as the right to be represented and assisted by persons of one's own choosing, including legal counsel and an interpreter, to every applicant at the time of the applicant's application for assistance, and thereafter at any time when further county action respecting aid or services is taken. Such explanation shall be given in such manner as to be fully understood by the claimant.
2. Written notice of the right to a fair hearing shall be included in every notification to the applicant or recipient of the granting, denial, decrease, discontinuance, suspension

or increase in aid, or request for repayment, or where there is a change in a prior determination regarding aid. In all cases, the notice shall be prepared and mailed to the claimant or recipient in language understandable to the person receiving such notification.

3. The county agency or regional office must help the claimant to submit and process the claimant's request for a fair hearing.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
7 CFR 273.15(f),
45 CFR 205.10
(a)(3)

75-01-03-08. TIMELY NOTICE - ASSISTANCE PENDING HEARING.

1. Except as provided in subsections 3 and 4, where county agency action would result in a discontinuance, termination, suspension, withholding, or reduction of an assistance grant, the county must mail to the person affected a timely and adequate written notice which will include:
 - a. An explanation of the type of proposed action.
 - b. An explanation of the reason for the proposed action; and the state regulatory or statutory basis relied upon.
 - c. An explanation of the person's right to request corrective or other action from the county, the person's right to request a fair hearing, and the circumstances under which assistance will be continued if a fair hearing is requested.
2. Such notice is timely if mailed at least five days prior to the effective date of any action based on suspected fraud, and at least ten days prior to the effective date of any other action.
3. Except in food stamp cases when the county obtains facts indicating that assistance should be discontinued, suspended, terminated, or reduced because of the probable fraud of the recipient, and, where possible, such facts have been verified through collateral sources, notice of such grant adjustment shall be timely if mailed at least five days prior to the effective date of the proposed action. The notice shall be written and shall include information which would comply with subdivisions a, b, and c of subsection 1.

4. Timely notice is not required in the following instances although the county shall send notice not later than the date of action containing the requirements of subsection 1:
 - a. The county has factual information confirming the death of the person affected.
 - b. The county receives a clear written statement signed by the person affected that the person no longer wishes assistance; or that gives information which requires discontinuance or reduction of assistance and the person has indicated, in writing, that the person understands that this must be the consequence of supplying such information.
 - c. The person affected has been admitted or committed to an institution, and further payments to that individual do not qualify for federal financial participation under the state plan.
 - d. The person affected has been placed in skilled nursing care, intermediate care, or long-term hospitalization.
 - e. The whereabouts of the person affected are unknown and county mail directed to the person has been returned by the post office indicating no known forwarding address. The person's aid payment must, however, be made available to him if the person's whereabouts become known during the payment period covered by the returned check.
 - f. An aid to families with dependent children child is removed from the home as a result of a judicial determination, or voluntarily placed in foster care by the child's legal guardian.
 - g. The person affected has been accepted for assistance in new jurisdiction and that fact has been established by the county previously providing assistance.
 - h. A change in level of medical care is prescribed by the recipient patient's physician.
 - i. A special allowance granted for a specific period is terminated and the recipient has been informed in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period.
 - j. The state or federal government initiates a mass change which uniformly and similarly affects all similarly situated applicants, recipients, and households.

- k. The board determines, based on reliable information, that all members of a household have died.
 - l. The board determines, based on reliable information, that the household has moved from the project area.
 - m. The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of when the increased allotment would terminate.
 - nn. The household's allotment varies from month to month within the certification period to take into account changes which were anticipated at the time of certification, and the household was so notified at the time of certification.
 - o. The household jointly applied for public assistance and food stamp benefits and has been receiving food stamp benefits pending the approval of the public assistance grant and was notified at the time of certification that food stamp benefits would be reduced upon approval of the public assistance grant.
 - p. A household member is disqualified for fraud, or the benefits of the remaining household members are reduced or terminated, to reflect the disqualification of that household member.
 - q. The household contains a member subject to a lockout or strike or signs a waiver of its right to notice of adverse action for purposes of receiving a longer certification period than is otherwise allowed for such households.
 - r. The state agency has elected to assign a longer certification period to a household certified on an expedited basis and for whom verification was postponed, provided the household has received written notice that the receipt of benefits beyond the month of application is contingent on its providing the verification which was initially postponed and that the state agency may act on the verified information without further notice.
5. In any case where assistance has been discontinued, suspended, withheld, or reduced without timely notice, if the person affected requests a fair hearing within ten days of the mailing of the notice of action, assistance shall be reinstated retroactively and the provisions of subsection 7 shall apply.
 6. If, within the advance notice period, the person affected indicates the person's wish for a conference, that person or that person's authorized representative will be given an

opportunity by the county to discuss the problems, and will be given an explanation of the reasons for the proposed action, and will be permitted to show that proposed action is incorrect.

- a. During this conference, the person affected will be permitted to speak for oneself or be represented by legal counsel or by a friend or other spokesman.
 - b. The conference will not in any way diminish the person's right to a fair hearing.
7. Where the person affected has filed the person's request for a fair hearing within the requisite period, excepting those households whose certification period has expired, the assistance will be continued without change, until the fair hearing decision is rendered, unless prior thereto the claimant unconditionally withdraws or abandons the fair hearing request or the board determines, based upon the record of the claimant's fair hearing, that the issue involved in such hearing is one of state or federal law or change in state or federal law and not one of incorrect grant computation. Any assistance so continued is subject to recovery if the claimant does not prevail in the claimant's appeal.
8. Where a change affecting the recipient's grant occurs during the hearing process and the recipient fails to file a timely fair hearing request after notice of such change, the county may implement its proposed action based upon the change.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
7 CFR 273.15(d),
273.15(k),
45 CFR 205.10
(a)(4),
205.10
(a)(6)

75-01-03-09. COUNTY AGENCY AND REGIONAL OFFICE RESPONSIBILITY
PRIOR TO FAIR HEARING.

1. Preliminary review and report to the appeals referee supervisor is required as follows:
 - a. Upon receipt of the notice from the appeals referee supervisor that a recipient has filed a request for a fair hearing with the supervisor's office, the county agency or regional office shall immediately ascertain whether the

request for fair hearing was filed within ten days (five days in cases of suspected fraud) after the mailing by the county of the notice required by section 75-01-03-08. If the request was not filed within that period, the county shall neither reinstate nor continue aid except that households appealing adverse food stamp program actions may have benefits continued if they can show good cause for the failure to file a request within ten days.

- b. Upon receipt of notice of a request for fair hearing filed in accordance with subsection 4 of section 75-01-03-01, the county agency shall, no later than the fifth day after receiving the request, provide the office of the appeals referee supervisor with all information pertinent to such request.
2. Prior the fair hearing, the county agency shall:
- a. Review the applicable statutes, regulations, and policies in light of the evidence. When assistance of the board is required to clarify any question, such assistance shall be sought without delay.
 - b. Organize all oral and written evidence and plan for its presentation at the hearing to avoid unnecessary delay or duplication. The county agency shall prepare a written basis of action statement setting forth the county position on the issues to be heard for submission into the fair hearing record. Where county policy directives or instructions are involved in the matter, copies of those documents shall be presented at the hearing.
 - c. Arrange for the attendance of all necessary witnesses and the availability of all documents for presentation of the county agency's case, including notification to the appeals referee supervisor of any communication problem which the claimant may have.
 - d. Prepare a complete final budget computation, month by month, for the period subject to review, and up to the date of hearing, if the issue is:
 - (1) Amount of aid;
 - (2) Grant adjustment; or
 - (3) Demand for repayment.
 - e. Remain in touch with the claimant, and report without delay to the appeals referee supervisor any change in the claimant's address or in any other circumstances which might affect the necessity for or conduct of the hearing. The responsibility to report changes in the claimant's

circumstances continues after the hearing until a decision is rendered.

- f. Arrange to have present at the hearing a county agency representative with full authority to make binding agreements and stipulations on behalf of the county agency.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDCC 50-01-09

75-01-03-10. HEARING IN COUNTY OTHER THAN COUNTY RESPONSIBLE FOR AID - PROCEDURE. If the hearing is to be held in a county other than the responsible county, the social service board of the latter county may elect any of the following procedures:

1. Send a county social service board representative, with the case record, to the hearing.
2. Send the case record, containing all relevant information in the county social service board's possession, to the social service board of the county in which the claimant is living or where the hearing is to be held with the request that the second county social service board represent the responsible county at the hearing. Such request should be made in sufficient time to allow the second county social service board to arrange such representation or notify the county social service board of its inability to act. The first county social service board would then, necessarily, follow one of the other two procedures.
3. Submit, prior to the hearing, a written statement to the office of the appeals referee supervisor summarizing its action including all of the information in its possession regarding the point or points at issue, both supporting and opposing its action, together with relevant dates and any arguments the county desires to make and include in the statement that the county rests its case on the summary statement and materials submitted. The summary statement must be signed under penalty of perjury and contain a waiver of procedural defects of proceeding with the hearing in the absence of a county representative. Pertinent documents must be attached.

A hearing on this basis may be continued for further hearing if the claimant raises an objection or the referee determines that a substantial defect will result by proceedings.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDCC 50-01-09

75-01-03-11. GROUP HEARINGS.

1. The administrative hearing officer may schedule a series of individual requests for fair hearing for a group hearing when the sole issue set forth in the request is one involving state or federal law or policy or changes in state or federal law, as the officer may deem appropriate.
2. In all group hearings, each individual claimant shall be permitted to present his own case, and shall be permitted to be represented by any person the claimant may desire.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02

Law Implemented
7 CFR 273.15(e),
45 CFR 205.10
(a)(5)(iv)

75-01-03-12. COMPLIANCE WITH BOARD DECISIONS. Immediately upon receipt of notice of the decision, the county shall comply with the decision.

History: Effective September 1, 1979.

General Authority
NDCC 50-06-05.1

Law Implemented
NDCC 50-01-09,
50-09-14

75-01-03-13. ACKNOWLEDGEMENT OF REQUEST FOR FAIR HEARING.

1. A request for fair hearing filed with the executive director shall be acknowledged by a written communication to the claimant and to the county agency.

2. The claimant shall also be provided with a list of all free legal service organizations which may be available to the claimant and which have authorized the board to include their name, address, and telephone number on such list.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
7 CFR 273.15(h),
45 CFR 205.10
(a)(5)

75-01-03-14. HEARING - PLACE AND NOTIFICATION.

1. The hearing shall be held in the county seat of the county in which the claimant is living at the time of the hearing or at the regional office serving such county. If the claimant is unable to travel to the county seat or the regional office because of the claimant's health, transportation problems, or other reasons, the claimant shall promptly notify the administrative hearing officer. The hearing shall be conducted at a reasonable time, date, and place to be set by the administrative hearing officer.
2. The office of the appeals referee supervisor shall mail or deliver to the claimant and the claimant's authorized representative, if any, and the county a written notice of the time and place of the hearing. In all food stamp appeals, the notice shall be sent not less than ten days prior to the hearing unless the household should, in writing, request less advance notice to expedite the scheduling of the hearing.
3. The office of the appeals referee supervisor shall mail or deliver to the household and its authorized representative, if any, and the county, a written notice of the time and place of an administrative fraud hearing not less than thirty days prior to the hearing.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
7 CFR 273.15(1),
273.16(d)(3),
273.16(d)(4)

75-01-03-15. HEARING - GENERAL RULES AND PROCEDURE.

1. Attendance at the hearing shall be limited to those directly concerned, namely, the claimant and the claimant's representative, interpreter, if any, and witnesses; representatives of the county agency; representatives of the board, if any, and the referee. The administrative hearing officer shall exclude unauthorized persons from the hearing unless both principals agree to their presence. The administrative hearing officer may exclude persons whose actions cause substantial disruption of the hearing. Appearance by the claimant (in person or by representative) is required at a fair hearing unless the hearing is processed by questionnaire pursuant to section 75-01-03-16. County agency representation is also required.
2. The hearing shall be conducted in an impartial manner. All testimony shall be submitted under oath or affirmation.
3. The proceedings at the hearing shall be reported otherwise perpetuated by mechanical, electronic, or other means capable of reproduction or transcription.
4. The administrative hearing officer shall not be bound by the rules of procedure or evidence applicable in courts.
5. The claimant or the claimant's authorized representative shall, upon request, be given the opportunity to examine at any time before and during the hearing, the claimant's entire case file and all evidence used by the county agency to support its decision and all documentary evidence that will be used at the hearing.
6. Before the hearing has commenced, the appeals referee supervisor or the supervisor's designee, shall, upon the request of the claimant or the claimant's duly authorized representative, or the county agency, issue a subpoena requiring the presence of any witness whose expected testimony has been shown to be necessary and material to the case, without being unduly repetitious, or a subpoena duces tecum requiring the production of documents shown to be relevant and material. After the hearing has commenced, the administrative hearing officer assigned to the case shall issue such subpoenas as the officer may deem necessary and proper. The party requesting the subpoena is responsible for service of such document.

7. An interpreter shall be provided by the state if the administrative hearing officer determines this necessary.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDCC 50-06-15,
7 CFR 273.15(o),
273.15(p),
273.16(d),
45 CFR 205.10(a)

75-01-03-16. CLAIMANT LIVING OUTSIDE OF NORTH DAKOTA.

1. When a request for fair hearing is received from a person living outside of the state, it shall be acknowledged and reported in the same manner as other requests for fair hearing. Unless the claimant voluntarily offers to return to North Dakota for the hearing or authorizes a representative in North Dakota, the county social service board shall be advised that the hearing will be processed by questionnaire.
2. A questionnaire consists of a written series of questions to be answered by claimant in writing and sworn to before a notary. The completed questionnaire properly attested and submitted shall constitute the claimant's appearance and testimony in the hearing. The questions to be included in the questionnaire are to be prepared jointly by the county social service board and the state board. It shall be the responsibility of the state board to initiate discussion with the county social service board regarding preparation of the questions to be included. The county social service board shall submit the questions it wants answered.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDCC 50-06-05.1

75-01-03-17. CONTINUANCE FOR ADDITIONAL EVIDENCE. If, after a hearing has begun, the administrative hearing officer conducting the hearing determines that additional evidence not available at the hearing is necessary for the proper determination of the case, the officer may at the officer's discretion:

1. Continue the hearing to a later date. In connection therewith, the officer may order further investigation and may direct either party to produce the additional evidence.
2. In order to permit the reception of additional documentary evidence or written argument, close the hearing and hold the record open for a stated period, not to exceed thirty days, if the request for additional time is accompanied by a written waiver of the requirement that a decision be made within ninety days, as found at 7 C.F.R. 273.16(d)(2)(iv) and 45 C.F.R. 205.10(a)(16) or sixty days, as found at 7 C.F.R. 273.15(c)(1). If the request for additional time is not accompanied by such a written waiver, the record shall be held open for no more than three additional days. If an expedited hearing has been requested, no additional time may be granted unless a written withdrawal of the request for an expedited hearing accompanies the request for additional time.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDCC 50-06-05.1

75-01-03-18. WITHDRAWAL OR ABANDONMENT.

1. A request for a fair hearing shall not be dismissed without hearing unless the claimant either withdraws or abandons the request.
2. A withdrawal occurs when the referee is notified by the claimant that the claimant no longer wishes a hearing.
3. An abandonment occurs when:
 - a. The claimant or the claimant's authorized representative fails to appear at the hearing without good cause.
 - b. The claimant cannot be located through the claimant's last address of record, or through the claimant's authorized representative, and such inability to locate the claimant precludes the scheduling of a fair hearing.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDCC 50-06-05.1,
7 CFR 273.15(j),
45 CFR 205.10
(a)(5)(v)

75-01-03-19. DISPOSITION OF FAIR HEARING MATTERS. All fair hearing matters will be set for hearing, heard, decided, and the decision implemented, within ninety days from the date of the request for fair hearing or if the fair hearing request concerns food stamp matters, within sixty days from the date of receipt of the request for fair hearing, except in those cases where the claimant withdraws or abandons the claimant's request for hearing, or the matter is continued pursuant to subsection 2 of section 75-01-03-17. The overall time limits shall be extended only for the period of the continuance.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
7 CFR 273.15(c),
45 CFR 205.10
(a)(16)

75-01-03-20. REVIEW OF DETERMINATIONS AFFECTING SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES.

1. Whenever a skilled nursing facility or an intermediate care facility appeals a decision by the board regarding the denial, termination or nonrenewal of the facility's provider agreement under the medicaid program, the board shall provide the facility with an opportunity for an informal reconsideration of the decision before the effective date of such decision.
2. The informal reconsideration shall include:
 - a. Written notice to the facility of the denial, termination, or nonrenewal of the provider agreement and the findings upon which such denial, termination, or nonrenewal is based.
 - b. An opportunity for the facility to refute, in writing, the board's finding.
 - c. Written affirmation or reversal of the denial, termination, or nonrenewal of the facility's provider agreement.
3. If, after the informal consideration, the facility is still dissatisfied with the board's decision, the facility may, within thirty days, request a full evidentiary hearing on the denial, termination, or nonrenewal of the facility's provider agreement. A request by a facility for a full evidentiary

hearing will not delay or suspend the effective date of the proposed action concerning the provider agreement.

4. If a facility requests a full evidentiary hearing on the denial, termination, or nonrenewal of its provider agreement, the evidentiary hearing shall be completed within one hundred twenty days after the effective date of the action in question. The procedures for a full evidentiary hearing must include:
 - a. Timely written notice to the facility of the basis for the decision as well as disclosure of the evidence on which the decision was made.
 - b. An opportunity for the facility or its representatives to appear before an administrative hearing officer to refute the basis for the decision.
 - c. An opportunity for the facility to be represented by counsel or another representative.
 - d. An opportunity for the facility or its representatives to be heard in person, to call witnesses, and to present documentary evidence.
 - e. An opportunity for the facility or its representatives to cross-examine witnesses.
 - f. A written decision by the board setting forth the reasons for the decision and the evidence upon which the decision is based.
5. If the board's action to deny, terminate, or not renew a provider agreement is based on the fact that the facility has been denied, terminated, or not renewed for participation in the medicare program, the board shall advise the facility that the facility is entitled to the review procedures for medicare facilities set forth in 42 C.F.R. 405, subpart O, which shall be in lieu of the procedure set forth in this section. A final decision entered under the medicare review procedures will be binding on the board and the facility for purposes of medicaid participation.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
42 CFR 431.151

75-01-03-21. SUBMISSION OF PROPOSED DECISION. After the hearing has been closed, the administrative hearing officer shall issue the officer's proposed decision for review by the appeals referee supervisor and submission to the board.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDCC 50-06-05.1,
45 CFR 205.10(a)

75-01-03-22. DECISION BY BOARD.

1. The board, after receiving the proposed decision, may:
 - a. Adopt the decision in its entirety.
 - b. Decide the matter itself on the record, with or without taking additional evidence.
 - c. Order another hearing to be conducted by another administrative hearing officer, if overall time limitations for disposition of fair hearing matters so permit.
2. The decision of the board shall be in writing. It shall include a statement of the facts and of the statutes and regulations involved and of the reasoning which supports the decision.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDCC 28-32-13

75-01-03-23. NOTICE OF DECISION. After the administrative hearing officer's proposed decision is adopted, or a decision is rendered by the board, the office of the appeals referee supervisor

shall mail a copy to the claimant and the county agency. The notice of decision shall also contain a statement explaining the right to request a rehearing unless the decision is itself a decision on rehearing.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDCC 28-32-13

75-01-03-24. PRESERVATION OF RECORD. The verbatim record of the testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, and the referee's proposed decision shall constitute the exclusive record for decision and shall be available to the claimant and the county at any reasonable time for three years after the date of the board's decision in all food stamp cases, and for ninety days after the date of the board's decision in all other cases. A transcribed copy of recorded testimony requested within ninety days after the date of the board's decision shall be made available to the claimant or the county agency upon payment of a reasonable transcription fee.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDCC 28-32-12,
7 CFR 273.15(q),
45 CFR 205.10(a)

75-01-03-25. REHEARING.

1. A request for rehearing must be filed with the office of the executive director within fifteen days after a decision is issued by the board. The request must be based upon new evidence indicating that an unjust or invalid determination has been made, or upon an allegation that the board has incorrectly interpreted relevant statutory or case law.
2. If the request for rehearing is to permit presentation of additional evidence, the request shall:
 - a. Describe the additional evidence.
 - b. Show why it was not previously introduced.
 - c. Explain its materiality.

3. The board may order a rehearing on its own motion.
4. The grant of a rehearing, either upon request or upon its own motion, is a matter for the board's discretion.
5. If a request for a rehearing is granted, the board may:
 - a. Order reconsideration of the decision on the basis of the evidence in the record.
 - b. Order the taking of additional evidence.
 - c. Order an entire new hearing.
6. A decision issued upon a rehearing shall not be subject to further hearing.

History: Effective September 1, 1979.

General Authority
NDCC 28-32-02,
50-06-05.1

Law Implemented
NDCC 28-32-14

ARTICLE 75-02

ECONOMIC ASSISTANCE

Chapter	
75-02-01	Aid to Families with Dependent Children
75-02-02	Medical Services
75-02-03	Homes for Aged and Infirm
<u>75-02-04</u>	<u>Child Support Enforcement</u>

75-02-02-09. NURSING HOME CARE.

1. Definition of a skilled nursing facility. For purposes of medical assistance, a skilled nursing facility is one that meets the standards for nursing facility licensing established by the state department of health, and in addition, meets all requirements for skilled nursing facilities as prescribed in federal law and regulations governing medical assistance under title XIX of the Social Security Act.
2. Definition of an intermediate care facility. An intermediate care facility is one that meets standards for licensing as established by the state department of health and, in addition, meets all requirements for intermediate care facilities as prescribed in federal law and regulations governing medical assistance under title XIX of the Social Security Act.
3. Screening and utilization review. All recipients receiving skilled and intermediate care shall be subject to review by the medical assistance program to determine the appropriate level of care required. The medical assistance program shall take such steps as are necessary to assure that levels of care and quality of care as defined by federal law and regulation and the medical assistance state plan are followed.
4. Skilled nursing care. Skilled nursing care is care provided in a skilled nursing home that provides inpatient nursing care and related services for persons who require medically supervised nursing care on a continuous basis, but do not require the level of intensive care furnished in a general hospital. A skilled nursing home provides for:
 - a. Physician's services that include:
 - (1) Complete medical examination giving diagnosis and mental and physical functional capacity upon admission for each patient. This information is recorded on a physical examination form or transfer from a hospital or other medical institution and must be fully completed and signed.

- (2) Recommendations for treatment.
 - (3) Periodic visits and progress reports including current medical findings at least as frequently as required by applicable federal regulation.
 - (4) Medication review every thirty days.
 - (5) Emergency care as needed. The phone number for the physician on call should be posted.
- b. Ancillary services that include:
- (1) Laboratory, x-ray, electrocardiogram, etc., are to be arranged for as recommended by the physician.
 - (2) Copies of all ancillary reports should be placed in the patient's medical file.
- c. Social services that include:
- (1) Social factors. Prior to admission or at the time of application, the medically related social needs of the patient are identified and become a part of the medical record in the facility.
 - (2) Supplemental notes to the social factors. Periodically, the social worker will complete a brief summary report describing the change in a patient's condition and the patient's need for a different level of care. This will become a part of the medical record in the facility.
 - (3) Refer to the explanation of social services at the end of the guidelines.
- d. Dietary services that include:
- (1) Dietary consultation by a dietitian who meets the American dietetic association standards for qualification as a dietitian, or a graduate holding a bachelor's degree with a major in food and nutrition.
 - (2) Supervised menus and meals planned to meet the dietary needs of all the patients.
- e. Pharmaceutical services that include:
- (1) Pharmacy consultant responsible for maintaining policies and procedures related to dispensing and administering drugs and biologicals.
 - (2) An approved emergency medication kit.
- f. Restorative or maintenance services that include:

- (1) Exercise therapy to meet the daily physical needs of the patient.
- (2) Arrangement for physical therapy as recommended by the physician for rehabilitation to enable the patient to return home or to an alternate care facility.

g. Activity therapy that includes:

- (1) Activity program under the supervision of an activity director.
- (2) Program consistent with the needs and disability of the patients.
- (3) Activities to be patient centered and meaningful.

h. Nursing services that include:

- (1) Nursing supervision under the direction of a registered nurse who devotes full time to supervisory duties.
- (2) In addition to the nursing supervisor, a licensed registered nurse or licensed practical nurse is on duty during each tour of duty, who is responsible for performing duties directly related to providing nursing services to patients.
- (3) Auxiliary personnel, which includes nurse aides, orderlies, attendants, or ward clerks, who perform duties not constituting the practice of nursing, but provide personal care and delegated duties under the supervision of licensed nursing personnel.
- (4) Written patient care policies and procedures governing nursing care that are available for all nursing staff members.
- (5) Patient care plans that identify the total needs of each patient to assure that the patient's medical, emotional, and social needs are met.
- (6) Maintain a clinical record for each patient in accordance with accepted professional principles. Each record should contain an identification sheet, medical history and diagnosis, social factors and supplemental reports, physician's orders and progress notes, nurse's observations, medication and treatment records, ancillary reports, transfer sheets, and special service reports.
- (7) Inservice educational program for the training of auxiliary personnel, and continuing inservice programs for all levels of help.

5. Identification of those needing skilled nursing home care. The medical assistance program shall determine eligibility for skilled nursing care

based upon the following criteria for skilled nursing functions that identify skilled nursing care:

- a. Orally administered medications requiring changes of dosage.
 - b. Intravenous or intramuscular medications.
 - c. Narcotics for pain.
 - d. Uncontrolled diabetics.
 - e. Administration of medical gases.
 - f. Restoration measures directed by a physician to enable patient to return to the patient's own home.
 - g. Postoperative colostomy care for regulation.
 - h. Postoperative catheterizations following bladder surgery.
 - i. Dressings or treatment requiring aseptic technique.
 - j. Nasopharyngeal aspiration.
 - k. Levine tube and gastrostomy feedings.
 - l. Patients requiring extensive personal care due to permanent handicap, e.g., quadriplegia.
 - m. Agitated patient who may be dangerous to the patient or others.
 - n. Withdrawn patient whose needs must be anticipated.
6. Identification of those needing intermediate nursing care. The medical assistance program shall determine eligibility for intermediate nursing care based upon the following criteria for intermediate nursing functions that identify intermediate nursing care:
- a. Oral medications after routine dosage has been established.
 - b. Routine intramuscular injections that are given during the hours a licensed nurse is on duty.
 - c. Change of routine dressings or aseptic dressing during the day tour of duty.
 - d. Routine catheter care and routine indwelling catheter irrigation.
 - e. Inhalation therapy that is given during the hours a licensed nurse is on duty and the therapy regimen is established.
 - f. Maintenance care of colostomy or ileostomy that has been regulated.
 - g. Care of the incontinent patient.

- h. Supervision of personal care with bathing, dressing, and personal hygiene, including bed baths.
 - i. Observation of vital signs on an established routine.
 - j. Supervision of the senile and confused patient who may need restraints, needs constant watching for safety and at times is uncooperative.
 - k. Assistance in training and feeding, ambulation and toiletry.
 - l. Prevention and treatment of skin irritations and uncomplicated decubitus ulcers.
 - m. Supervision of therapeutic diets.
 - n. Maintenance nursing care.
 - o. Motivation or reality orientation, or both, therapy with a specific program outline and documentation of participation and progress.
 - p. Supervision and protection of the mentally retarded and socially maladjusted.
 - q. Care of the chronically handicapped whose condition is stable, e.g., cerebral palsy, blind, deaf.
7. Appropriateness of services. Skilled nursing facilities and intermediate care facilities shall ensure that appropriate medical, social, and psychological services are provided to all residents of the facility who are dependent in whole or in part on medical assistance under title XIX of the Social Security Act, the appropriateness of such services to be based on the needs of each resident, such needs to include, but not be limited to, age.

History: Amended effective September 1, 1979.

General Authority
NDCC 50-24.1-04

Law Implemented
NDCC 50-24.1-04,
45 CFR 249.10,
45 CFR 249.12,
45 CFR 249.33

CHAPTER 75-02-04
CHILD SUPPORT ENFORCEMENT

Section	
75-02-04-01	Definitions
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75-02-04-05	Eligibility for Services
75-02-04-06	Establishment of Paternity
75-02-04-07	Establishment of Support Obligation
75-02-04-08	Location of Absent Parent
75-02-04-09	Cooperation with Other States
75-02-04-10	Cooperative Arrangements
75-02-04-11	Distribution of Child Support Collections
75-02-04-12	Incentive Payments
75-02-04-13	Maintenance of Records
75-02-04-14	Safeguarding of Information

75-02-04-01. DEFINITIONS.

1. "Agency" means the single and separate organization unit within the social service board of North Dakota responsible for the administration of the North Dakota state plan under title IV-D of the Social Security Act, as amended [42 U.S.C. 651 et seq.].
2. "Board" means the social service board of North Dakota.
3. "Program" means the child support enforcement program under title IV-D of the Social Security Act, as amended [42 U.S.C. 651 et seq.].
4. "Regional unit" means one of the various local child support enforcement offices which have been established either pursuant to a joint exercise of governmental power by the various counties within a particular area in this state, or by a purchase of service agreement, for the purpose of performing the functions and assuming the responsibilities which have been delegated by the agency or prescribed by state or federal law.
5. "State plan" means the comprehensive statement, submitted by the agency and approved by the department of health, education and welfare's regional office of child support enforcement, which describes the nature and scope of the program in this state, including assurances that the program will be administered in conformity with title IV-D of the Social

Security Act, as amended [42 U.S.C. 651 et seq.], the rules and regulations promulgated thereunder, and all applicable official issuances of the department of health, education and welfare.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
NDCC 50-09-03,
45 CFR 301.1

75-02-04-02. ORGANIZATION. The agency shall consist of a central office located in Bismarck, regional units located in Bismarck, Devils Lake, Dickinson, Fargo, Grand Forks, Jamestown, Minot and Williston, and such other locations as may be necessary for the proper and efficient operation of the plan.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
NDCC 50-09-02,
45 CFR 302.12

75-02-04-03. AUTHORITY.

1. For all children who are eligible for the services under the state plan, the agency shall, when necessary, establish paternity, locate the absent parent or parents legally liable for the support of the child or children, and secure support for the child or children.
2. The agency is authorized to:
 - a. Enter into cooperative agreements with any state or local agency or official to perform the functions under the state plan.
 - b. Purchase services from any attorney, person, or private agency to perform the functions under the state plan.
 - c. Enter into written agreements or cooperative arrangements with appropriate courts, law enforcement agencies, or tribal councils, including a single official who has the legal authority to enter into such cooperative agreements on behalf of such courts, agencies, or tribal councils.

- d. Cooperate with any other state in establishing paternity, locating an absent parent who may be present in this state, or in securing compliance by an absent parent who is present in this state with an order issued by a court of such other state.
- e. Establish and operate a parent locator service and accept requests to utilize the federal parent locator service.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
NDCC 50-09-02,
50-09-03,
45 CFR 302.31,
302.34,
302.35,
302.36

75-02-04-04. ASSIGNMENT OF RIGHTS OF SUPPORT.

1. Pursuant to North Dakota Century Code section 50-09-06, all applicants for or recipients of aid to families with dependent children are deemed to have assigned to the board and the county social service board at the time of application, all rights to child support from any other person such applicant or recipient may have in his own behalf or in behalf of any other family member for whom the application is made. The assignment shall be effective as to both current and accrued child support obligations. All applicants for or recipients of aid to families with dependent children are required to cooperate with the agency or regional unit in obtaining support for the child or children unless they have good cause for refusing to cooperate, pursuant to section 75-02-01-09.
2. The county social service board shall promptly notify the agency or regional unit of any child, including a child born out of wedlock, whose eligibility for aid to families with dependent children is based on the parent's absence from the home. Unless the applicant or recipient for aid to families with dependent children has established good cause pursuant to section 75-02-01-09 for refusing to cooperate in obtaining support for the child, the child support agency shall proceed

in attempting to obtain support for the child in accordance with the state plan.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
NDCC 50-09-06,
45 CFR 232.11,
232.12,
232.41,
235.70

75-02-04-05. ELIGIBILITY FOR SERVICES.

1. Any person receiving benefits under the aid to families with dependent children program or who, upon request for child support enforcement services, would be eligible to receive benefits under such program if application were made, shall not be assessed a charge for the services provided by the agency or regional unit.
2. Upon application, the agency or regional unit shall provide child support collection, location, and paternity determination services to any individual who is not a recipient of or otherwise eligible for benefits under the aid to families with dependent children program.
 - a. The agency or regional unit shall advise these individuals at the time of application that the administrative costs incurred pursuant to the services rendered may be deducted from the amount recovered in the event the legislative appropriation for such services is insufficient to defray such costs.
 - b. Any determination on the part of the agency to deduct administrative costs incurred from amounts recovered shall be prospective and not operate to recoup costs incurred prior to and thirty days following the mailing of such determination to affected individuals. Upon agency determination to recover costs incurred, all new applicants for child support enforcement services who are not recipients of or otherwise eligible for benefits under the aid to families with dependent children program shall be advised that administrative costs will be immediately deducted from amounts recovered in accordance with the schedule set out in subdivision d.
 - c. The amount of costs to be deducted from the amount recovered shall be calculated pursuant to a schedule which shall establish a percentage of the administrative costs

which will be deducted from the amount recovered. The percentage of administrative costs which will be deducted will be calculated by dividing the individual's monthly gross income by the state's monthly median income for the individual's family size, as determined by the United States census bureau. For purposes of this section, "monthly gross income" includes the following:

- (1) Money, wages or salaries.
- (2) Net income from nonfarm self-employment.
- (3) Net income from farm self-employment.
- (4) Social security.
- (5) Dividends, interest on savings or bonds, income from estates or trusts, net rental income or royalties.
- (6) Pensions and annuities.
- (7) Unemployment compensation.
- (8) Workers' compensation.
- (9) Alimony.
- (10) Child support.
- (11) Veterans' pensions.

d. The following is the schedule to be used in determining the amount of administrative costs which may be deducted from the amount of support received:

<u>Percentage of Median Income</u>	<u>Percent of Costs to be Deducted</u>
0-49	0
50-59	10
60-69	20
70-79	40
80-89	60
90-99	80
100 and above	100

e. In determining the amount of administrative costs incurred in collecting support, the following will be disregarded:

- (1) Fees and costs incurred in any proceeding brought under North Dakota Century Code chapter 14-12.1.

- (2) Costs which are incurred when an attorney for the agency or regional unit, functioning as an assistant state's attorney, assists in enforcement of compliance with a decree or order of a court requiring child support or alimony combined with child support payments.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
NDCC 50-09-06,
45 CFR 302.33

75-02-04-06. ESTABLISHMENT OF PATERNITY. For all cases in which there is an assignment pursuant to North Dakota Century Code section 50-09-06 (except where good cause for refusing to cooperate exists in accordance with section 75-02-01-09) or where there is an application for services, and the paternity of the child or children has not been established, the agency or regional unit shall attempt to establish the paternity of the child or children. Paternity may be established by:

1. Court order or other legal process established under state law.
2. An acknowledgement of paternity made by the alleged father in accordance with North Dakota Century Code section 14-17-04.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
NDCC 50-09-08,
45 CFR 303.5

75-02-04-07. ESTABLISHMENT OF SUPPORT OBLIGATION.

1. In the absence of a court order establishing the amount of the support obligation of the person legally responsible for providing support, the agency or regional unit may assist the court in determining the required monthly support obligation, the amount of support obligation arrearage, if any, and the amount to be paid periodically against the arrearage.
2. In establishing the person's support obligation, the agency shall consider the financial ability of the person to make payments to the agency. The determination of the person's financial ability to make such payments may be based in part on the following criteria:

- a. All earnings, income and resources of the absent parent, including real and personal property.
 - b. The earnings potential of the absent parent.
 - c. The reasonable necessities of the absent parent.
 - d. The ability of the absent parent to borrow.
 - e. The needs of the child for whom the support is sought.
 - f. The amount of assistance which would be paid to the child under the full standard of financial need of the state's aid to families with dependent children program.
 - g. The existence of other dependents for whom the absent parent is responsible.
 - h. Other reasonable criteria which the state may choose to incorporate.
3. For all cases in which the support obligation and the amount of the obligation have been established, the agency or regional unit shall maintain an effective system for identifying cases in which there is a failure to comply with the support obligation, contacting delinquent individuals as soon as possible in order to enforce the obligation, and obtaining the current support obligation and any arrearages. Attempts to collect support shall include, when necessary, the institution of the following procedures:
- a. Contempt proceedings to enforce an outstanding court order.
 - b. Garnishments.
 - c. Wage assignments.
 - d. Attachments.
 - e. Execution and liens.
 - f. Use of the United States district court.

g. Collection by the internal revenue service.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
NDCC 50-09-08,
45 CFR 302.50,
302.53,
303.4,
303.6

75-02-04-08. LOCATION OF ABSENT PARENT.

1. For all cases in which there is an assignment pursuant to North Dakota Century Code section 50-09-06 (except where good cause for refusing to cooperate exists pursuant to section 75-02-01-09) or where there is an application for services, the agency or regional unit shall attempt to locate all absent parents when their location is unknown. In meeting this requirement, the agency or regional unit shall:
 - a. Use local locate sources such as officials and employees administering public assistance, general assistance, medical assistance, food stamps and social services, relatives and friends of the absent parent, current or past employers, the local telephone company, the United States postal service, financial references, unions, fraternal organizations, and police, parole, and probation records.
 - b. Establish working relationships with all local agencies in order to utilize local locate resources effectively.
 - c. Use state agencies and departments, which as a minimum, must include those departments which maintain records of public assistance, unemployment insurance, income taxation, driver's licenses, motor vehicle registration, and criminal records.
 - d. Transmit cases to the federal parental locator service if a reasonable and diligent state and local locate effort has failed to locate the absent parent.
 - e. Refer cases to the child support agency of any other state if there is a reasonable belief that the absent parent may be present in such state.
2. The agency shall establish and maintain a state parent locator service which, as a minimum, shall utilize all sources of information and records available in the state and, where

appropriate, in other states, as well as the federal parent locator service of the department of health, education and welfare.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
NDCC 50-09-08,
45 CFR 302.35,
303.3

75-02-04-09. COOPERATION WITH OTHER STATES.

1. For all cases referred to the agency by the child support agency of another state, the agency shall assist the other state in locating an absent parent, establishing paternity, or securing support for a child in such other state. To this end, the agency, where possible, shall:
 - a. Locate the putative father or absent parent utilizing the standards prescribed in section 75-02-04-08.
 - b. Establish paternity or assist the other state in establishing paternity.
 - c. Process and enforce all court orders referred by another state, whether pursuant to the Uniform Reciprocal Enforcement of Support Act or other legal processes, utilizing the same remedies normally applied in its own cases.
 - d. Collect any support payments from the absent parent and forward them to the state to whom they are owed.
 - e. Inform the state which initiated the action of the status of the case periodically and on request.
2. When the agency refers a case to the child support agency of another state for the purpose of locating an absent parent, establishing paternity, or securing support for a child, the agency shall provide sufficient information to assist the child support agency of the other state. Such information shall include the following:
 - a. Whether the case involves a recipient of assistance under the aid to families with dependent children program in this state.
 - b. The amount of current assistance payment, if any.

- c. Notice of any termination of eligibility for assistance.
- d. Identifying information regarding the absent parent.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
45 CFR 302.36,
303.7

75-02-04-10. COOPERATIVE ARRANGEMENTS. The agency shall enter into written agreements for cooperative arrangements with appropriate courts, law enforcement and county officials. Such agreements will include provision for:

1. The exchange of pertinent information with courts, law enforcement and county officials needed in locating absent parents, establishing paternity and securing support, including the immediate transfer of information obtained from the agency which administers the aid to families with dependent children program, to court or law enforcement officials, to the extent that such information is relevant to the duties to be performed pursuant to the agreement.
2. Assistance to the agency in carrying out the program.
3. The investigation and prosecution of fraud directly related to paternity and child support.
4. Reimbursement of allowable costs to courts and law enforcement officials for their assistance in carrying out the program.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
NDCC 50-09-08,
45 CFR 302.34

75-02-04-11. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS. The agency shall distribute all support payments collected under the program in accordance with the procedures established in 45 C.F.R. 302.51.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
45 CFR 302.51

75-02-04-12. INCENTIVE PAYMENTS.

1. The agency shall make an incentive payment to any political subdivision of this state as well as any other state that makes collection of child support which has been assigned pursuant to North Dakota Century Code section 50-09-06.
2. The incentive payment shall be fifteen percent of any amount collected and required to be retained by the state to reduce or repay assistance payments.
3. The incentive payment shall be made from the amounts which would otherwise represent the federal share of the assistance payments repaid to the state as a result of the collection.
4. When more than one jurisdiction within this state is involved in the enforcement or collection of support, or this state is involved with one or more other states in the enforcement or collection of support, the amount of the incentive payment shall be allocated among such jurisdictions in a manner prescribed by the agency.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
45 CFR 302.52

75-02-04-13. MAINTENANCE OF RECORDS.

1. The agency or regional unit shall maintain all records necessary for the proper and efficient operation of the plan including those records which pertain to the following:
 - a. Applications for services available under the state plan.
 - b. Location of absent parents, actions to establish paternity and obtain and enforce child support, and the cost incurred in such actions.
 - c. Amounts and sources of child support collections and the distribution of these collections.
 - d. Any fees charged or paid for child support services.
 - e. Any other information required to be maintained by the department of health, education and welfare.

2. For all cases in which there is an assignment pursuant to North Dakota Century Code section 50-09-06 (except where good cause for refusing to cooperate exists pursuant to section 75-02-01-09) or where there is an application for services, the agency or regional unit shall establish a case record which shall contain all information collected pertaining to the case. The case record shall include:

- a. The referral document or documents received from the agency which administers the aid to families with dependent children program or the application for child support enforcement services of any other individual.
- b. A record of any contacts with an applicant or recipient of assistance under the aid to families with dependent children program who is required to cooperate with the child support agency.
- c. A record of any contacts with an individual who has applied for child support services.
- d. A record of any contacts with the absent parent, the date and results of such contact.
- e. A record of efforts to utilize state or local locate resources and the dates and results of these efforts.
- f. A record identifying the court order and amount of support.
- g. A record of communications to and from the board or the county social service board.
- h. A record of communications to and from any other child support agencies.
- i. A record of communications to and from the regional office of the department of health, education and welfare and the federal parent locator service.
- j. A notation indicating the closing of the case, the date thereof, and the reason for such action.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
NDCC 50-09-08,
45 CFR 302.15,
303.2

75-02-04-14. SAFEGUARDING OF INFORMATION.

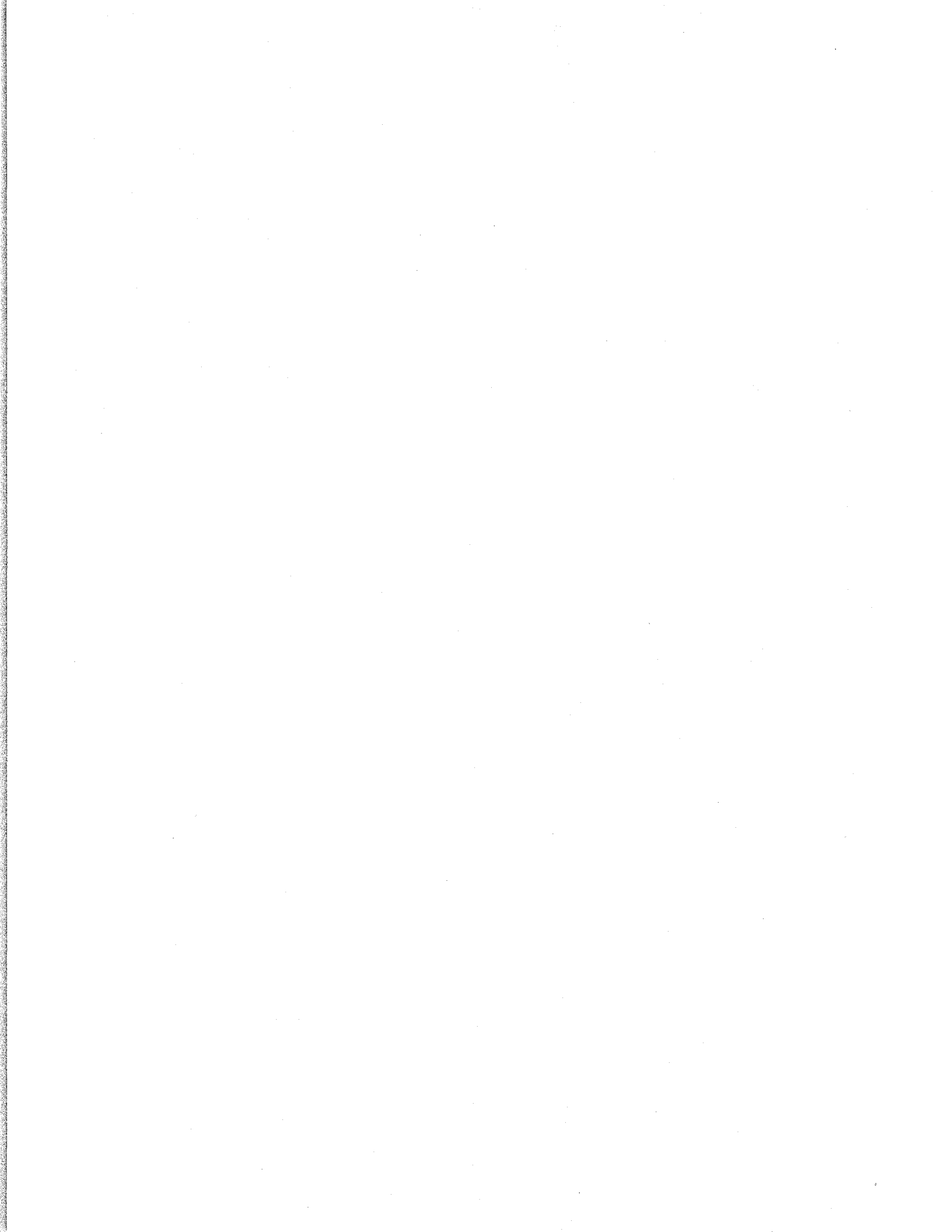
1. The use or disclosure of information concerning applicants or recipients of child support enforcement services shall be governed by section 75-01-02-01 and by North Dakota Century Code section 50-06-15.
2. The agency or regional unit or its agents or employees, shall not divulge any information obtained from any federal, state, or local agency, except to the extent necessary for the administration of the child support enforcement program or when otherwise directed by judicial order or when otherwise provided by law.

History: Effective September 1, 1979.

General Authority
NDCC 50-09-02

Law Implemented
NDCC 50-06-15,
50-09-08,
45 CFR 205.50,
302.18





TITLE 81

TAX COMMISSIONER

CHAPTER 81-02-02
MOBILE HOME TAX

Section

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81-02-02-01. DEFINITION DEFINITIONS OF MOBILE HOME TAX AND OF MOBILE HOME.
The mobile home tax is a property tax imposed upon the owners of the mobile homes (house trailers) pursuant to North Dakota Century Code chapter 57-55. For the purposes of the mobile home tax law, the term "mobile home" means any nonself-propelled vehicular structure built on a chassis, having a length of twenty-seven feet [8.23 meters] or more, ordinarily designed for human living quarters, either on a temporary or permanent basis, and used as a residence or a place of business of the owner or occupant. The length of the mobile home shall be determined by measuring the mobile home on the outside of it and shall be exclusive of the hitch.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-55-09

Law Implemented
NDCC 57-55-01

81-02-02-26. DELINQUENCIES AND PENALTIES. The first installment of a mobile home tax due from a mobile home owner shall become due on January tenth and shall become delinquent on the first day of March following and, if not paid on or before said date, shall be subject to a penalty of two percent, and on April first following an additional penalty at the rate of two percent, and on May first following an additional penalty of two percent, and an additional penalty of two percent on June first following, making a total penalty on the first installment of eight percent if not paid on or before June first in the year in which the tax became delinquent.

The second installment of mobile home tax shall become due on June first and shall become delinquent on the first day of July following and, if the second installment is not paid on or before that date, it shall be subject to a penalty of two percent, and on August first following an additional penalty of two percent, and on September first following an additional two percent, and on October first following an additional two percent, making a total penalty on the second installment of eight percent if not paid on or before October first in the year in which the tax became delinquent.

If any tax due from a mobile home owner remains unpaid after January first of the year following the year in which it became due, interest shall be charged and collected at the monthly rate of one-half percent of the amount of tax due and unpaid for each month or fraction thereof until the aforesaid tax and penalty have been paid in full; the interest shall be charged beginning with the month of January of the year following the year in which the tax became due. As applied to unpaid mobile home taxes for the year 1979 and for years before and after 1979, interest shall be charged on all unpaid taxes assessed for any year or part of a year, including years prior to the year 1979, but no interest shall be charged and collected for any month prior to July 1979, on unpaid taxes assessed for any year prior to 1979; for example, interest shall be charged and collected beginning with the month of July 1979, on unpaid taxes for the year 1978 and any prior year. On unpaid taxes for the year 1979, interest shall be charged and collected beginning with the month of January 1980, and on unpaid taxes for the year 1980 and any year thereafter interest shall be charged and collected beginning with the month of January of the year following the year in which the unpaid tax became due.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-55-09

Law Implemented
NDCC 57-55-03

81-02-02-38. ENFORCEMENT DUTIES OF COUNTY DIRECTOR OF TAX EQUALIZATION. The county director of tax equalization shall make inspections of each mobile home park, mobile home lot, or place where the mobile homes are known to be located, including each mobile home dealer's business location, for the purpose of determining if each mobile home owner, each owner, operator, or manager of the mobile home park or lot, and each mobile home dealer is complying with the provisions of the mobile home tax law. If the county director of tax equalization shall determine that any person is not complying with the provisions of the mobile home tax law, the director shall give such person a warning and inform the person that if the person fails to comply within ten days after issuance of such warning, civil action will may be taken by the county director of tax equalization to enforce compliance, including the collection of any delinquent mobile home tax and penalty, penalties, and interest due thereon. (Also see section 81-02-02-39.)

~~In-the-event-that~~ If the county director of tax equalization shall determine that there is any mobile home in the director's county belonging to a transient or nonresident who has failed to comply with the provisions of the mobile home tax law and if in the director's opinion any mobile home tax due from such person will be uncollectible if immediate action is not taken, the director shall determine the amount of such tax if it was not previously determined and shall notify the

county sheriff of the amount of tax and penalties due and that such amount shall be collected immediately. The county sheriff shall immediately, and in no event later than five days after receiving such notification, commence proceedings as provided by law to collect the taxes and, penalties, and interest, if any, that are due. The provisions of North Dakota Century Code chapter 57-22 for the immediate collection of delinquent personal property taxes shall be applicable for the collection of any such mobile home tax and penalty.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-55-09

Law Implemented
NDCC 57-55-11

81-02-02-39. NONCOMPLIANCE BY MOBILE HOME OWNER. A mobile home owner is not in compliance with the provisions of the mobile home tax law if the owner has not made application to the county director of tax equalization for a tax decal within the time required by the mobile home tax law. (See section 81-02-02-05.) A mobile home owner is not in compliance with the provisions of the mobile home tax law if the owner has made application to the county director of tax equalization for a tax decal but has not paid the tax or installments on it on or before the date the tax installments become due. Similarly, a mobile home owner is not in compliance if the owner has not paid all or any part of the penalty that has attached to a delinquent tax or installment of tax. (See section 81-02-02-26.) A mobile home owner is not in compliance with the provisions of the mobile home tax law if the owner does not have a tax decal attached to the owner's mobile home as provided in sections 81-02-02-10 and 81-02-02-21. The owner of a taxable mobile home who moves it from its existing location is not in compliance with the provisions of the mobile home tax law if there is not displayed on the mobile home during the transport of it either a current year's mobile home tax decal or a tax release statement obtained from the county director of tax equalization indicating that all taxes, penalties, and interest levied against the mobile home have been paid, as provided in section 81-02-02-47.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-55-09

Law Implemented
NDCC 57-55-07,
57-55-11

81-02-02-44. CRIMINAL PENALTIES. North Dakota Century Code section 57-55-07 provides as follows:

57-55-07. FAILURE TO MAKE APPLICATION OR TO DISPLAY DECAL - ILLEGAL USE OF DECAL - PENALTY. Any person who fails to make application pursuant to the provisions of this chapter, or who shall use or allow to be used a tax decal of any mobile home taxed pursuant to the provisions of this chapter for any purpose other

than the purpose for which it was issued, or who fails to attach such decal pursuant to the provisions of this chapter, shall be guilty of a class B misdemeanor.

North Dakota Century Code section 57-55-08 provides the following penalty for refusal by the owner, operator, or manager of any mobile home park or lot to make the annual report or any calendar quarter report required by that section:

Any person who fails to make a report as required by this section shall be guilty of an infraction.

(Also see section 81-02-02-37.)

North Dakota Century Code section 57-55-11, subsection 2, provides that before a mobile home is moved from its existing location the mobile home owner must have a current year's mobile home decal displayed thereon or must display on the mobile home during transport a tax release statement obtained from the county director of tax equalization indicating that all taxes, penalties, and interest levied against the mobile home have been paid, and it further provides that a violation of this provision shall constitute an infraction. (Also see sections 81-02-02-39 and 81-02-02-47.)

History: Amended effective September 1, 1979.

General Authority
NDCC 57-55-09

Law Implemented
NDCC 57-55-07,
57-55-08,
57-55-11

81-02-02-47. TAX DECAL OR TAX RELEASE TO BE DISPLAYED ON MOBILE HOME BEING MOVED. Before a mobile home is moved from its existing location, the owner must have displayed on it during the transport of it either a current year's mobile home tax decal or a tax release statement obtained from the county director of tax equalization indicating that all taxes, penalties, and interest levied against the mobile home have been paid. A current year's mobile home tax decal includes a current year's tax exempt decal for the mobile home. This provision is not applicable to licensed mobile home dealer who transports a mobile home for purposes of resale. (Also see sections 81-02-02-39 and 81-02-02-44.)

History: Effective September 1, 1979.

General Authority
NDCC 57-55-09

Law Implemented
NDCC 57-55-11

CHAPTER 81-03-02
INCOME TAX ON INDIVIDUALS, ESTATES, TRUSTS, AND FIDUCIARIES

Section
81-03-02-01 Resident Trusts

81-03-02-02	Credit Against Tax for Taxes Paid to Another State
81-03-02-03	Reporting of Income by Husband and Wife
81-03-02-04	<u>Deduction of Interest Income Received From Contract for Deed Sales of Agricultural Land to Beginning Farmer</u>
81-03-02-05	<u>Deduction for Income Received From Sale or Lease of Land to Beginning Farmer</u>

81-03-02-04. DEDUCTION OF INTEREST INCOME RECEIVED FROM CONTRACT FOR DEED SALES OF AGRICULTURAL LAND TO BEGINNING FARMER.

1. Effective date. Effective for taxable years beginning on or after January 1, 1979, the North Dakota income tax law provides in subdivision m of subsection 1 of North Dakota Century Code section 57-38-01.2 for a deduction from income of interest received by an individual, estate, or trust who sells agricultural land to a beginning farmer on a contract for deed. This provision was enacted as House Bill No. 1306 by the 1979 legislative assembly and also appears as chapter 604, 1979 Session Laws.
2. Deduction of interest income received from contract for deed. In order for a seller of agricultural land to be entitled to deduct from income the interest income received in connection with the land sold, all of the following requirements must be met:
 - a. The seller must be an individual, estate, or trust.
 - b. The land sold by the seller must be eighty acres [32.37 hectares] or more of agricultural land.
 - c. The land must be sold to a beginning farmer on a contract for deed that extends over a period of not less than fifteen years.
 - d. The annual interest rate payable on the contract for deed by the beginning farmer cannot be more than six percent.
 - e. The seller must obtain from the beginning farmer a notarized statement that includes a list of the beginning farmer's assets, debts, and net worth and such other information as may be required by the tax commissioner, which list, or a copy thereof, shall be attached to the seller's income tax return filed for each year in which the interest income deduction provided in this section is claimed.
 - f. The seller may deduct the interest income only in the year received. Any unused part of the deduction for a particular year cannot be carried back or carried forward as a deduction on the return for any other year.
3. Definitions. As used in this section, unless the context or subject matter otherwise requires:

- a. "Agricultural purposes" means production of agricultural crops, livestock or livestock products, poultry or poultry products, bees or bee products, and fruit or other horticultural crops.
- b. "Beginning farmer" means an individual:
- (1) Who is domiciled in the state of North Dakota or who maintains a permanent place of abode within the state and spends in the aggregate more than seven months of the taxable year within the state.
 - (2) Who was eighteen years of age or older at the time of executing the contract for deed from which the seller claims an interest income deduction. (See North Dakota Century Code section 14-10-09.)
 - (3) More than one-half of whose annual income is received from farming, except that this requirement does not apply to an individual's annual income for the tax year in which the individual commences farming.
 - (4) Who intends to use for agricultural purposes any farmland rented or purchased.
 - (5) Who has had adequate training by experience or education in the type of farming operation that will be begun.
 - (6) Who has net worth, including that of dependents and spouse, if any, of less than fifty thousand dollars, except that there shall not be included in the computation of such net worth the value of such individual's personal residence, one personal or family motor vehicle, household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings, and any amounts owed thereon; provided that for computing such net worth, the value placed on each piece of real property located in North Dakota and owned by the beginning farmer shall be the amount listed as the current market value on the most recent real estate tax statement from the county treasurer for that particular piece of property.

A husband and wife living together who together purchase farmland shall be regarded as one beginning farmer for the purposes of this section.

History: Effective September 1, 1979.

General Authority
NDCC 57-38-56

Law Implemented
NDCC 57-38-01.2(1)(m)

81-03-02-05. DEDUCTION FOR INCOME RECEIVED FROM SALE OR LEASE OF LAND TO BEGINNING FARMER.

1. Effective date. Effective for taxable years beginning on or after January 1, 1979, the North Dakota income tax law provides in North Dakota Century Code sections 57-38-67 through 57-38-70 for deductions from income by a landowner who receives rental income from land leased to a beginning farmer or who receives income or gain from the sale of a land to a beginning farmer. This provision was enacted as House Bill No. 1475 by the 1979 legislative assembly and also appears as chapter 613, 1979 Session Laws.

2. Deduction of income received from sale of land to beginning farmer. A capital gain or ordinary income received by a landowner from the sale of land to a beginning farmer is deductible by the landowner from the landowner's income, subject, however, to the following conditions and limitations:
 - a. The amount of land sold in any sale to the beginning farmer must consist of twenty acres [8.09 hectares] or more in one or more tracts or parcels.

 - b. The amount of capital gain or ordinary income that is deductible by the landowner from the sale of land is limited as follows:
 - (1) It is deductible by the landowner only in the year of the sale. Any unused part of the deduction for a particular year cannot be carried back or carried forward as a deduction on the return for any other year.

 - (2) It is limited to an amount that is equal to fifty percent of any income realized from the sale which, after consideration of any capital gains treatment, would otherwise be subject to state income tax in the year of sale.

 - (3) The amount that can be deducted is limited to a maximum of fifty thousand dollars.

 - c. The landowner must obtain from the beginning farmer who purchased the land a notarized statement that includes a list of the beginning farmer's assets, debts, and net worth and such other information as may be required by the tax commissioner; the landowner must file the notarized statement and any other required information with the North Dakota income tax return on which the deduction provided for in this subsection is claimed.

3. Deduction of rental income received from land leased to beginning farmer. Rental income received by a landowner from land leased to a beginning farmer is deductible by the landowner from the landowner's income, subject, however, to the following conditions and limitations:
 - a. The amount of land leased by the landowner to the beginning farmer must consist of twenty acres [8.09 hectares] or more in one or more tracts or parcels.

 - b. The lease agreement must be for a term of at least three years.

- c. The deduction for rental income cannot be claimed by the landowner for lease agreements with more than one beginning farmer on the same tract or parcel of land.
 - d. The amount of such rental income deducted by the landowner for any one year cannot exceed fifty percent of such rental income or twenty-five thousand dollars, whichever is less. Any unused part of the deduction for a particular year cannot be carried back or carried forward as a deduction on the return for any other year.
 - e. The landowner must obtain from the beginning farmer who leases the land a notarized statement that includes a list of the beginning farmer's assets, debts, and net worth and such other information as may be required by the tax commissioner; the landowner must file the notarized statement, or a copy thereof, and any other required information with the North Dakota income tax return for each year on which deduction of rental income from any particular lease is claimed.
 - f. The landowner must certify on the North Dakota income tax return on which a deduction for rental income is claimed that the land leased to the beginning farmer was not subject to a rental agreement with any other person that was canceled for the purpose of qualifying for the rental income deduction provided for in this subsection.
4. Definitions. As used in this section, unless the context or subject matter otherwise requires:
- a. "Agricultural purposes" means production of agricultural crops, livestock or livestock products, poultry or poultry products, bees or bee products, and fruit or other horticultural crops.
 - b. "Beginning farmer" means an individual:
 - (1) Who is domiciled in the state of North Dakota or who maintains a permanent place of abode within the state and spends in the aggregate more than seven months of the taxable year within the state.
 - (2) Who was eighteen years of age or older at the time of purchasing or leasing the farmland with respect to which the seller claims a deduction under this section. (See North Dakota Century Code section 14-10-09.)
 - (3) More than one-half of whose annual income is received from farming, except that this requirement does not apply to an individual's annual income for the tax year in which the individual commences farming.
 - (4) Who intends to use for agricultural purposes any farmland rented or purchased.
 - (5) Who has had adequate training by experience or education in the type of farming operation that will be begun.

(6) Who has a net worth, including that of dependents and spouse, if any, of less than fifty thousand dollars, except that there shall not be included in the computation of such net worth the value of such individual's personal residence, one personal or family motor vehicle, household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings, and any amounts owed thereon; provided that for computing such net worth, the value placed on each piece of real property located in North Dakota and owned by the beginning farmer shall be the amount listed as the current market value on the most recent real estate tax statement from the county treasurer for that particular piece of property.

A husband and wife living together who together purchase farmland shall be regarded as one beginning farmer for the purposes of this section.

c. "Landowner" means any individual, estate, or trust, owning land in North Dakota, except that it does not include any individual, estate, or trust who acquires land in North Dakota for the purpose of selling or leasing it to obtain either of the income tax deductions provided for in this section.

d. "Year of sale" means the year in which the land in North Dakota is sold to a beginning farmer, except that in the case of a contract for deed it means the year the contract for deed is entered into by the landowner and beginning farmer, regardless of the amount of payment, if any, that is made in that year to the landowner by the beginning farmer.

History: Effective September 1, 1979.

General Authority
NDCC 57-38-56

Law Implemented
NDCC 57-38-67,
58-38-68,
57-38-69,
57-38-70

CHAPTER 81-03-03
INCOME TAX WITHHOLDING

Section	
81-03-03-01	Definition of Nonresident Employee and of Resident Employee - Penalty
81-03-03-02	Employer's Application for Identification Number
81-03-03-03	Exemption - Transportation Company Employee
81-03-03-04	Withholding Tables Authorized
<u>81-03-03-05</u>	<u>Use of Employee's Withholding Allowance Certificate, Federal Form W-4</u>

81-03-03-05. USE OF EMPLOYEE'S WITHHOLDING ALLOWANCE CERTIFICATE, FEDERAL FORM W-4. An employer shall use the employee's withholding allowance certificate, federal form W-4 filed by the employee with the employer under the income tax withholding provision of the United States Internal Revenue Code of 1954, as amended, for determining the number of exemptions to be used in computing the income tax to be withheld under North Dakota Century Code chapter 57-38. However, the tax commissioner may, at the commissioner's discretion, require an employee to file a certificate for claiming exemptions on a form prescribed by the commissioner. An employer will be required to have the employee file North Dakota form-304, employee's certificate for claiming exemptions, with the employer if the employee claims to be "exempt" from withholding on federal form W-4 since the state does not recognize the "exempt" status for North Dakota income tax withholding purposes. If form-304 is required and the employee fails to complete it, the employer will be required to withhold North Dakota state income tax withheld on a single status, zero exemption basis.

History: Effective September 1, 1979.

General Authority
NDCC 57-38-56

Law Implemented
NDCC 57-38-58,
57-38-59

81-04-01-03. SALES TAX PERMIT REQUIRED - BOND REQUIREMENT. A retail sales tax permit must be procured by every person before engaging in the business of selling tangible personal property, including magazines and periodicals or subscriptions thereto; steam, gas, water or communication service at retail; charges for participation in or tickets or admissions to places of amusement and athletic events or operating coin operated amusement or entertainment devices; leasing or renting of tangible personal property and the leasing or renting of hotel, motel, or tourist court accommodations. Application for such permit shall be made upon a form prescribed by the tax commissioner and shall be signed by the owner of the business if a natural person, in the case of an association or partnership by ~~a member~~ all members or ~~partner~~ partners thereof, or in the case of a corporation by an executive officer thereof or some person specifically authorized by the corporation to sign the application, in which case written evidence of the signer's authority must be attached to the application.

A permit shall be held for each separate business location. Doing business without a sales tax permit is a class A misdemeanor punishable by a maximum penalty of one year's imprisonment, a fine of one thousand dollars, or both.

The permit must be posted conspicuously at the place for which it is issued. Any "transient merchant" who is in the business of soliciting or making sales at retail to consumers shall, before soliciting such a sale from a consumer, exhibit to the consumer or prospective consumer the retail sales tax permit issued to the merchant.

"Transient merchant" means any person, individual, copartnership or corporation, either as principal or agent, who solicits, engages in, does, or transacts any temporary or transient business in North Dakota, either in one

locality or in traveling from place to place in the state, selling goods, wares, and merchandise, who does not intend to become, and does not become a permanent merchant of such place, and who, for the purpose of carrying on such business, hires, leases, occupies, or uses a building, structure, lot, tract, railroad car, motor vehicle, or display or sample case of any kind for the exhibition and sale of such goods, wares, and merchandise.

Upon proper application and upon determining that the applicant is or will be a bona fide retailer, a permit shall be issued to the applicant for each place of business within North Dakota without charge. The fee for the issuance of a sales tax permit to a retailer whose permit has been previously revoked shall be five fifty dollars.

The tax commissioner, when in the commissioner's judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under North Dakota Century Code chapter 57-39.2 may require any person subject to such tax to file with the tax commissioner a bond, issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility in such amount as the tax commissioner may fix, to secure the payment of any tax and penalties due or which may become due from such person. In lieu of such bond, securities approved by the tax commissioner in such amounts as the tax commissioner may prescribe may be deposited with the tax commissioner, which securities shall be kept in the custody of the tax commissioner and may be sold by the tax commissioner at public or private sale, without notice to the depositor thereof, if it becomes necessary to do so in order to recover any tax and penalties due.

A sales tax permit cannot be issued to a person not engaged in a retail business and cannot be issued to a person solely for the purpose of permitting the person to buy at wholesale or to buy without payment of sales tax to the seller of property or services taxable under the sales tax law.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-03.2,
57-39.2-03.3,
57-39.2-12,
57-39.2-14,
57-39.2-18,
57-39.2-20

81-04-01-04. SALE OF BUSINESS - PERMIT NOT TRANSFERABLE. When the holder of a retail sales tax permit sells the holder's business to another person, all sales tax for which the holder is liable becomes due immediately and the holder shall immediately notify the tax commissioner and surrender the holder's permit for cancellation and shall, within fifteen days, make a final sales tax return and remit all sales tax due. The purchaser of the business shall make application for a new permit in the purchaser's own name.

If the ownership status of a business which holds a sales tax permit changes from one type of business ownership such as sole proprietor, partnership, or corporation to another type of business ownership, a new retail sales tax permit is required. The new owner must apply for the new permit.

In the case of corporations, a new retail sales tax permit is required only if ownership of the business for which the permit was issued changes to a different corporation or other owner. In the case of a corporation being sold or when new corporate officers are added to a corporation or replace other previous corporate officers, the tax commissioner shall be notified of these corporate officer changes although no new sales tax permit will be required of the corporation.

In the case of partnerships, a new permit is required if one or more partners enter or leave the partnership.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-10,
57-39.2-11,
57-39.2-14,
57-39.2-20

81-04-01-05. CHANGE OF LOCATION. When a holder of a retail sales tax permit changes the holder's business location of the retail business, either within the same city or from one city to another location without changing the nature of the business, such permittee sales tax permit holder shall notify the commissioner of the change of location, notify-the-commissioner and of the new address; ~~and surrender to the commissioner the sales tax permit which had been issued for the business location being changed.~~ Upon notification of the new address, the commissioner will issue a corrected sales tax permit showing the new business address without charge.

~~Upon receipt of the permit which was previously issued and upon notification of the new address; a corrected sales tax permit showing the new business address will be issued to the permittee for the new business location without charge.~~

If, in the course of change of location, ~~the nature of the business is changed or if~~ the ownership of the business is also changed, an application for a new sales tax permit, as set out in section 81-04-01-03 must be submitted to the commissioner.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-14

81-04-01-07. PERMITS - RETURNS. Any business or institution making taxable retail sales of either tangible personal property or services is required by law to hold a North Dakota sales tax permit. A permit may be obtained upon application to the sales tax section of the North Dakota tax department. When a business or institution has a permit, it receives the sales tax reporting forms each calendar quarter for filing its report. The seasonal or temporary businesses which are on semiannual or annual filing will receive their reporting forms either once or twice each year. These forms must be filed ~~each--quarter~~ quarterly, semiannually or annually depending upon the status of the sales tax permit holder whether a tax is due or not as since the tax department has no way of knowing the status of the account without a filed report. If no tax is due, the return is simply filed indicating that no taxable sales or purchases (made from suppliers who do not collect sales tax) were made for that quarter taxable period. Unless the return is filed, the sales tax section will automatically advise the permit holder that ~~the-holder~~ he or she is delinquent.

The penalty for a delinquent return is five percent of the amount of tax due or five dollars, whichever is greater, plus one percent of such tax for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due.

The commissioner may, at the commissioner's discretion, grant to the retailer a thirty day extension of time during which the retailer may file the retailer's return. If such an extension is granted, the time in which the retailer is required to make payment shall be extended for the same period, but interest shall be charged upon the amount of the deferred payment at the rate of eight percent per annum from the date the tax would have been due if the extension had not been granted to the date the tax is paid.

All sales tax returns must include the entire gross sales at retail. No returns will be acceptable if made upon cash receipts alone; a return must include the receipts from all retail sales whether made for cash or credit or any other thing of monetary value.

The tax commissioner will not allow reporting on a cash basis.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-10,
57-39.2-11,
57-39.2-12,
57-39.2-14,
57-39.2-18,
57-39.2-20

81-04-02-04. EXEMPTIONS AND DEDUCTIONS. From the total amount of gross receipts of the retailer, the following exemptions and credits may be deducted on

the sales tax return, but the items must be itemized and explained on the return or supporting schedules:

1. Sales to the United States government or to certain of its agencies, departments, or instrumentalities. (See sections 81-04-02-07 and 81-04-02-08.)
2. Sales to the state of North Dakota, other states of the United States, or any of the subdivisions, departments, agencies, or institutions thereof, including any county, city, township, school district, park district, or municipal corporation. (See section 81-04-02-10.)
3. Sales of drugs to be used as part of a feed ration. Effective July 1, 1971. (See section 81-04-02-12.)
4. Sales of gasoline. (See section 81-04-02-11.)
5. Sales in interstate commerce. (See section 81-04-02-28.)
6. Sales of tangible personal property for processing. (See sections 81-04-02-05 and 81-04-02-06.)
7. Sales of tangible personal property for resale. (See section 81-04-02-25.)
8. Refunds or returned merchandise and repossessions. (See sections 81-04-02-24 and 81-04-02-93.)
9. Bad debts. (See section 81-04-02-24.)
10. Sales of livestock, poultry, draft, or fur-bearing animal feeds. (See section 81-04-02-12.)
11. Sales of commercial fertilizers, fungicides, seed treatments, inoculants and fumigants, herbicides, and insecticides, and seeds for planting. (See sections 81-04-02-13 and 81-04-02-14.)
12. Sales of newspapers. (See section 81-04-02-16.)
13. Sales of service. (See section 81-04-02-17.)
14. Sales of drugs sold under a doctor's prescription. (See section 81-04-02-42.)
15. Sales of oxygen for medical purposes upon the written order of a doctor. (See section 81-04-02-42.)
16. Sales of textbooks to regularly enrolled students of a private or public school and (effective July 1, 1971) sales of textbooks, yearbooks, and school supplies purchased by a private, nonprofit elementary or secondary school or institution of higher learning conducting courses of study similar to those conducted by public schools in this state. (See section 81-04-02-19.)

17. Gross receipts from the sale, furnishing, or service of passenger transportation service and gross receipts from the sale, furnishing, or service of freight transportation service when provided by a common carrier and title to the transported tangible personal property has passed from the seller to the purchaser. ~~Effective July 1, 1975:~~ (See section 81-04-02-76.)
18. Any sale of tangible personal property selling for fifteen cents or less when sold through a coin-operated vending machine. (See section 81-04-02-73.)
19. Sales of newsprint and ink used in the publication of a newspaper. (See section 81-04-02-16.)
20. Sales of services furnished by a hospital, infirmary, sanitarium, nursing home, or home for the aged. (See sections 81-04-02-43 and 81-04-02-44.)
21. Certain sales made to residents of Montana (effective April 1, 1967) and certain sales to residents of Canada (effective July 1, 1971). (See section 81-04-02-28.)
22. Sales made to contractors furnishing to seller a certificate containing use tax account number and contractor's license number. (See section 81-04-02-48.)
23. Sales of tickets or admissions to state, county, district, and local fairs (see section 81-04-02-64); gross receipts from educational, religious, or charitable activities unless such activities are held in a publicly owned facility (see section 81-04-02-21); and, effective July 1, 1971, gross receipts derived by public school districts (see section 81-04-02-22).
24. Leasing or renting of mobile homes for residential housing for periods of more than thirty consecutive days. Effective July 1, 1971. (See section 81-04-02-33.)
25. Sales of any motor vehicle taxable under the provisions of motor vehicle excise tax laws of North Dakota. (See sections 81-04-02-33 and 81-04-02-57.)
26. Sales of food supplies to schools. (See sections 81-04-02-67 and 81-04-02-68.)
27. Leasing of motion picture film to motion picture exhibitors for exhibition if the sale of tickets or admissions to the exhibition of the film is subject to the sales tax. (See section 81-04-02-33.)
28. Sales for human consumption of food and food products when purchased by consumers for consumption off the premises where purchased. (See section 81-04-02-105.)

29. Sales of food to a student under a boarding contract with a college, university, fraternity, or sorority. Effective July 1, 1971. (See sections 81-04-02-20 and 81-04-02-69.)
30. Sales for final use to any credit union organized under the North Dakota law or under the Federal Credit Union Act.
31. Gross receipts from all sales made to any skilled nursing facility or intermediate care facility licensed by the state health department of health (effective July 1, 1975), and boarding homes for the aged and infirm licensed by the social service board of North Dakota:--Effective, (effective July 1, 1977-), and hospitals licensed by the state department of health (effective July 1, 1979). (~~See---section 81-04-02-44-)~~)
32. Gross receipts from the sale of Bibles, hymnals, textbooks, and prayer books sold to nonprofit religious organizations. Effective July 1, 1975. (See section 81-04-02-97.)
33. Gross receipts from sales of:
 - a. Artificial devices individually designed, constructed, or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual.
 - b. Artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body.
 - c. Artificial teeth sold by a dentist.
 - d. Eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.
 - e. Crutches and ~~wheel--chairs~~ wheelchairs for the use of invalids and crippled persons. Effective July 1, 1975. (See sections 81-04-02-39, 81-04-02-40, 81-04-02-41, and 81-04-02-42.)
 - f. Devices and supplies designed or intended for ostomy care and management to include collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.
 - g. Equipment, including manual control units, van lifts, van door opening units, and raised roofs, for attaching to or modifying a motor vehicle for use by a permanently physically disabled person.
 - h. Equipment, including elevators, dumb waiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling.

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

34. Gross receipts from the sale of coal mined in North Dakota. Effective July 1, 1975. (See section 81-04-02-79.)
35. Gross receipts from sales of electricity. Effective January 1, 1977.
36. Gross receipts from the sales of meals, including containers, packages, and materials used for wrapping food items, to nonprofit meal delivery organizations for delivery to shut-ins. Effective July 1, 1977.
37. Gross receipts from the leasing or renting of any tangible personal property under a finance leasing agreement upon which a North Dakota sales or use tax has been paid or is payable. Effective July 1, 1977. (See subsection 3 of section 81-04-02-33.)
38. Gross receipts from all sales of recreational travel trailers not exceeding eight feet [2.44 meters] in width or thirty-two feet [9.75 meters] in length which are designed to be principally used as temporary vacation dwellings when made to persons who are residents of other states which impose excise taxes upon registration of such recreational travel trailers. Effective July 1, 1977.
39. Materials which, by contract, are to be incorporated into or attached to real property situated outside of North Dakota.
40. Sale and in-state delivery by a North Dakota wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-03.2,
57-39.2-03.3,
57-39.2-04,
57-39.2-04.1

81-04-02-11. SALES OF ITEMS ON WHICH OTHER SPECIAL TAXES ARE IMPOSED. The sales tax law specifically provides that the sales tax shall not apply, except as otherwise provided, to the sale of any article or product upon which the state of North Dakota imposes a special tax. Therefore, sales of gasoline, heating fuels, diesel fuels, propane, kerosene, aviation fuel, jet fuel, gasohol, and other similar combustible fuels are not subject to the sales tax.

However, certain items on which a special tax is imposed are expressly subject to the North Dakota sales tax by statute. These items include sales at retail of alcoholic beverages, cigarettes, cigars, and other tobacco products.

Any special taxes imposed on these items become a part of the sales tax base for sales tax purposes.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-01.1,
57-39.2-03.2,
57-39.2-03.3,
57-39.2-04

81-04-02-17. SERVICES. In general the receipts derived from the furnishing of services rendered apart from the sale of tangible personal property are not subject to the sales tax. However, service used in the fabrication or the production of tangible personal property is never to be excluded from included in the receipts on which the tax is computed where the article fabricated or produced is sold to a final user or consumer. (See section 81-04-02-51.)

Where the sale of tangible personal property involves a charge for the installation of the property sold and the sales price includes the cost of installation and the property remains personal after the installation, the sales tax applies to the entire receipts from the sale. But where the installation charge is set out separate and apart for the purchaser from the charge made for the personal property installed, the sales tax does not apply to the installation charge. This section does not apply to the repair of personal property owned by others. See section 81-04-02-50 and other applicable sections which apply to repair services.

Any amount received as a periodic minimum charge by a retailer of steam, water, gas, or communication services to a final user is a taxable sale on which the retailer must collect and remit the sales tax regardless of whether or not the customer actually used any of the service that was available to the customer during a particular period. (See section 81-04-02-32.)

History: Amended effective September 1, 1979.

General Authority
NDCC ~~57-30-2-19~~ 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04

81-04-02-21. ADMISSION RECEIPTS - RELIGIOUS, EDUCATIONAL, AND CHARITABLE ORGANIZATIONS (INCLUDING PRIVATE AND PAROCHIAL SCHOOLS AND NONPROFIT COMMUNITY GROUPS). The receipts from entertainment or athletic events sponsored by nonprofit religious, educational, or charitable organizations are exempt from sales tax only if the net receipts from such events are expended for religious, educational, or charitable purposes and if those events are held in a privately

owned facility. All receipts from entertainment or athletic events sponsored by nonprofit, religious, educational, or charitable organizations are subject to sales tax if these events are held in a publicly owned facility. "Net receipts" means the gross proceeds from such event events less necessary expenses such as: payment of performers, rental of facilities, purchase of programs, advertising expense, printing of tickets, etc.

Nonprofit groups which sponsor concerts, lectures, athletic, or entertainment events will not be required to collect sales tax on all admission receipts ~~provided--the--net--receipts--from--all--such--events--are--expended--for--religious;--educational;--or--charitable--purposes~~ if such events are held in a "publicly owned facility". If the event is held in a privately owned facility and if the "net receipts" from such events are expended for religious, educational, or charitable purposes, then the gross receipts from all such events will be exempt.

Purchases by such nonprofit organizations of materials needed to conduct such events are subject to sales tax. Items such as programs which are given away, advertising posters, tickets, and similar items are taxable when purchased by these organizations. Programs which are to be sold may be purchased tax-exempt tax exempt if the purchaser presents a certificate of resale to the seller.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-03.2,
57-39.2-03.3,
57-39.2-04

81-04-02-32. TAXABLE SALES - ENGAGING IN BUSINESS. Taxable sales are sales at retail made in North Dakota by a person engaged in the business of selling at retail to purchasers for final use or consumption and not for resale or processing. Such sales are usually made by retail merchants, but sales at retail, within the meaning of the retail sales tax law, may also be made by manufacturers, jobbers, wholesalers, farmers, and others. (See section 81-04-02-34.)

The term "sale" also includes the exchange of property and any installment, credit, conditional, or consignment sale and includes any other kind of sale or transfer for any consideration. It includes the ordering, selecting, or aiding a customer to select any goods, wares, or merchandise from a price list or catalog, which such customer might order or which might be ordered for ~~such-customer-to-be~~ and shipped directly to such the customer.

The term "sale" also includes the leasing or renting of tangible personal property leased or rented for final use or consumption in this state except that it does not include sales or rental of motor vehicles licensed by the North Dakota motor vehicle registrar on which the tax imposed by North Dakota Century Code chapter 57-40.3 has been paid to North Dakota.

The term "sale" also includes periodic minimum charges made by retailers for furnishing, and having available the services for furnishing steam, water, gas, and communication service.

Engaging in the business of selling at retail includes any of the following methods of transacting business: maintaining, directly or indirectly or through a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or having an agent, salesman, or solicitor operating within the state under authority of the seller or its subsidiary, irrespective of whether such place of business, agent, salesman, or solicitor is located in this state permanently or temporarily, or whether such seller or subsidiary is qualified to do business in this state. Every such place of business, agent, salesman, or solicitor shall be required to obtain a North Dakota retail sales tax permit and collect and remit the sales tax on all sales.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19,
57-40.2-13

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-03.2,
57-39.2-03.3,
57-39.2-14,
57-39.2-20

81-04-02-35. AUCTIONEERS, AGENTS, PUBLIC AUCTIONS. Every auctioneer, agent, or factor acting for an unknown or undisclosed principal, entrusted with the possession of any bill of lading, custom house, or warehouseman's receipt for delivery of any tangible personal property for the purpose of sale, shall be deemed to be the owner thereof, and upon the sale of such property shall be required to file a return of the receipts of sale and pay the sales tax thereon. This same rule applies to lien holders, such as storage men, pawn brokers, mechanics, and artisans.

A sale by such auctioneer, agent, or factor, when acting for a known, disclosed principal, who is a retailer, shall be taxable to the principal. (See section 81-04-01-10.)

An agent acting for an undisclosed principal for the purpose of leasing tangible personal property to the public (for example, the rental of farm equipment to a farmer or the rental of equipment to a contractor) shall be deemed to be the owner thereof and the rentals received by such an agent are subject to the sales tax. The tax applies to the rental only when the leased item is used inside of this state during the rental period.

Community sales, auction houses, and like places where such business is conducted are retail establishments and the gross receipts from their sales are subject to the sales tax. The person or persons conducting such place of business are deemed to be retailers and must procure a sales tax permit.

Persons engaged in the business of selling, at auction or otherwise, tangible personal property of others which has been left with them to be sold, or property acquired otherwise, are retailers and sales by them to users or consumers are subject to the sales tax.

Where the auctioneer is employed by the operator of a public auction, the operator shall be liable for the payment of the sales tax.

A public auction held for the purpose of disposing of tangible personal property of an individual, such as closing out sales of farmers or householders selling their farm equipment or household goods, are casual sales, the receipts of which are not taxable. (See section 81-04-02-34.) For exceptions to this provision, see the following paragraph.

An auctioneer is considered to be a retailer if the auctioneer conducts a sale at which tangible personal property owned by any other retailer is sold. Only those receipts from sales of property submitted to the sale by a retailer are taxable to the auctioneer. Sales of property submitted to the auction by nonretailers are casual sales and are not subject to the North Dakota sales or use tax.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-03.2,
57-39.2-03.3,
57-39.2-04,
57-39.2-20

81-04-02-39. OCULISTS, OPHTHALMOLOGISTS, OPTOMETRISTS, AND OPTICIANS. The oculist and ophthalmologist are medical doctors required to be licensed under North Dakota Century Code chapter 43-17. They primarily render professional services to ~~the eyes of~~ their patients. Their professional services are ordinarily confined to the examination, surgery, and treatment of the eyes. The services of the oculist or ophthalmologist are not subject to the sales tax; however, they are required to pay sales tax on all equipment, material, or supplies which they use to render their services. If, in conjunction with their professional services, they sell eyeglasses or contact lenses to their patients, no sales tax applies since prescription eyeglasses or contact lenses are exempt from sales tax effective July 1, 1975. The sale of eyeglasses or contact lenses by an optical supply company to an oculist or an ophthalmologist is also exempt from sales tax. Replacement lenses, frames, face pieces, temples, screws, and other repair or replacement parts are also exempt from sales tax when sold either by an optical supply company to an oculist or ophthalmologist or by an oculist or ophthalmologist to a patient.

The optometrist examines eyes for the purpose of prescribing visual repair by mechanical means such as lenses used for correction or treatment or the employment of an orthoptic. The optometrist is required to be licensed under

North Dakota Century Code chapter 43-13. The optometrist's fees to the optometrist's patients are considered to be charges for professional services the same as in the case of the oculist and ophthalmologist and are not subject to the sales tax. The optometrist is required to pay sales tax on all equipment, material, or supplies which the optometrist uses to render the optometrist's services. If, in conjunction with their professional services, they sell prescription eyeglasses or contact lenses to their patients, no sales tax applies since prescription eyeglasses or contact lenses are exempt from sales tax effective July 1, 1975. The sale of eyeglasses or contact lenses by an optical supply company to an optometrist is also exempt from sales tax. Replacement lenses, frames, face pieces, temples, screws, and other repair or replacement parts are also exempt from sales tax when sold either by an optical supply company to an optometrist or by an optometrist to a patient.

The optician is the maker and seller of eyeglasses. The optician does not examine eyes but fills prescriptions supplied by the oculist, ophthalmologist, or optometrist. The optician is a retailer but most of the optician's sales are exempt from sales tax since prescription eyeglasses and contact lenses are exempt from sales tax effective July 1, 1975. The optician is required to collect and remit North Dakota sales tax on the gross receipts from all sales of nonprescription sunglasses, cleaning solutions, accessories, and similar items.

Any oculist, ophthalmologist, or optometrist, acting as a retailer, who sells accessories, such as nonprescription sunglasses, cleaning solutions, binoculars, telescopes, opera glasses, distilled water, salt tablets, and similar items must hold a North Dakota sales and use tax permit and must collect and remit sales tax on all sales of such items.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04,
57-39.2-14,
57-39.2-20

81-04-02-42. ~~DRUG STORES~~ DRUGSTORES, DRUGGISTS, AND PHARMACISTS. Sales of drugs, by any ~~drug-store~~ drugstore, sold under a doctor's prescription for human consumption or use are not subject to the sales tax. ~~Druggists and pharmacists engaged in the business of selling patent medicines and other merchandise for use or consumption are liable for the collection and remittance of the tax on the gross receipts from such sales.~~ Sales of drugs by a physician, general practitioner, surgeon, or clinic pharmacy are also exempt from the sales tax. (See section 81-04-02-40.) Sales of oxygen to any person for use by him for medical purposes are exempt if sold upon the written order of a doctor. Such sales need not be made by a drugstore to be exempt.

~~Sales of oxygen to any person for use by the person for medical purposes are exempt if sold upon the written order of a doctor. Such sales need not be made by a drug store to be exempt.~~

Effective July 1, 1975, sales or rentals of crutches or wheelchairs are exempt from sales tax and effective July 1, 1979, devices and supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors and other supplies especially designed for use of ostomates are also exempt from the sales tax.

Druggists and pharmacists engaged in the business of selling patent medicines and merchandise for use and consumption are liable for the collection and remittance of the sales tax on the gross receipts from such sales.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04,
57-39.2-20

81-04-02-43. HOSPITALS, INFIRMARIES, AND SANITARIUMS. The gross receipts from the sale of all services furnished by any hospital, infirmary, sanitarium, or like institution to any patient or occupant are exempt from sales tax. ~~These institutions; therefore, shall~~ should not collect sales tax from their patients or occupants for services furnished to the patients or occupants. However, the hospital; infirmary; sanitarium; or similar institution is regarded as the final user or consumer of all equipment, material, and supplies purchased by it and is required to pay sales tax to its supplier or remit a use tax on its sales and use tax return when making purchases of such tangible personal property or services that otherwise are subject to sales or use tax. Effective July 1, 1979, all hospitals licensed by the North Dakota state department of health are exempt from sales tax on all purchases of equipment, material, and supplies.

These institutions, when operating cafeterias either limited to employees or staff members or open to the general public or when operating gift shops or novelty shops; are regarded as retailers and, as such, are required to collect sales tax on sales made by them and are required to pay to the tax commissioner the tax on their gross receipts derived from all such sales. Sales of food supplies to these institutions to be used in the cafeteria operation and sales of inventory for gift shop or novelty shop purposes are regarded as sales for processing or resale and are not subject to tax.

If these institutions operate cafeterias for employees or staff members only, that is, cafeterias not open to the general public, the institutions are regarded as retailers and are required to collect sales tax on the cafeteria sales. ~~They are required to pay sales tax on all purchases of napkins; silverware; dishes; glassware; equipment; and supplies used in such a cafeteria just as they are required to pay sales tax on all purchases of tangible personal property used in operating the institution.~~

~~There was a sales tax law change which became effective on~~ Effective July 1, 1975, which provides that licensed nursing homes and intermediate care facilities

licensed by the North Dakota department of health are became exempt from the payment of sales tax on all purchases of tangible personal property and services otherwise taxable. Effective July 1, 1977, this exemption was extended to boarding homes for the aged and infirm licensed by the social service board of North Dakota. ~~This--exemption--does--not--apply--to--purchases--of--tangible--personal--property--and--taxable--services--by--a--hospital--infirmatory--or--sanitarium.~~ Effective July 1, 1979, this exemption was extended to all hospitals licensed by the North Dakota department of health.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19,
57-40.2-13

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04,
57-39.2-11,
57-39.2-20,
57-40.2-01,
57-40.2-02.1,
57-40.2-03.2,
57-40.2-05,
57-40.2-07,
57-40.2-09,
57-40.2-13

81-04-02-45. VETERINARIANS. Veterinarians are primarily engaged in the business of rendering professional services to the owners of domestic animals through care, medication, and treatment of such animals. They are users and consumers of all such items of tangible personal property as drugs, medicines, bandages and dressings, tonics, and the like which are used by them in connection with the performance of such services. Persons selling such items to veterinarians for use in the performance of professional services become liable for the tax unless such items are exempt by statute, such as drugs to be used as part of a feed ration. (See section 81-04-02-12.)

Where veterinarians maintain a stock of tangible personal property and sell ~~therefrom~~ to consumers separately and apart from the rendering of personal services, the veterinarian will be liable for the collection and remittance of the North Dakota sales tax provided that the tangible personal property being sold is not specifically exempt from sales tax.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04,
57-39.2-20

81-04-02-48. CONTRACTORS. Construction contracts are of four kinds:

1. Those in which the contractor or subcontractor agrees to furnish the machinery, equipment, materials, or supplies, and necessary labor and services for a lump sum.
2. Those in which the contractor or subcontractor agrees to furnish the machinery, equipment, materials or supplies, and necessary labor and services on a cost plus basis.
3. Those in which the contractor or subcontractor agrees to furnish the machinery, equipment, materials or supplies, and necessary labor and services on a time and materials basis with an upset or guaranteed price which may not be exceeded.
4. Those in which the contractor or subcontractor agrees to sell the machinery, equipment, materials, or supplies at an agreed price or at the regular retail price and render the labor or services either for an additional agreed price or on the basis of time consumed.

A contractor or subcontractor entering into a construction contract as defined in classifications one, two and three above will be regarded as the ultimate user or consumer of all machinery, equipment, materials, or supplies incorporated as improvements to real property by erection of buildings or by any other alteration, improvement, or repair to real property in carrying out such construction contract. The sale to the contractor or subcontractor is to a final buyer and the receipts of the one who sells to the contractor or subcontractor are subject to the sales tax unless the tangible personal property being sold to a contractor or subcontractor is property which will, by contract, be incorporated into or attached to real property situated outside of North Dakota.

If the contractor furnishes to the seller a completed certificate on a form prescribed by the tax commissioner containing the contractor's license number assigned to the contractor under the provisions of North Dakota Century Code chapter 43-07 and the contractor's use tax account number assigned to the contractor by the tax commissioner pursuant to North Dakota Century Code section 43-07-04, the seller is not required to collect tax on the sale or sales. Any contractor furnishing such certificate must report those purchases on the sales and use tax return for the reporting period in which the purchases are made and pay the tax to the tax commissioner with that return. Reporting the purchases and paying the tax on a completed job basis is not permitted. If a contractor or subcontractor has a contract to install tangible personal property into real property situated outside North Dakota, the contractor or subcontractor may purchase such tangible personal property from North Dakota retailers without payment of the North Dakota sales tax. The contractor or subcontractor should furnish to the seller a contractor's certificate which is to be retained by the seller to substantiate the exempt sale. The contractor is not required to report or remit sales tax on such tangible personal property if it is to be installed outside of North Dakota. The sales tax on such material should be properly paid to the state in which it is installed into or attached to real property. This provision of the law does not apply to equipment or materials purchased in North Dakota but which do not become installed into or attached to real property wherever situated.

The following constitutes a form of the contractor's certificate as prescribed by the tax commissioner:

CONTRACTOR'S CERTIFICATE

I, the undersigned, am a construction contractor holding North Dakota contractor's license number _____ issued by the secretary of state of the state of North Dakota and North Dakota use tax account number _____ assigned to me by the tax commissioner of the state of North Dakota.

I certify that as a construction contractor, I will report and remit any sales or use tax due as a result of purchases made by me from _____ (seller) directly to the office of the tax commissioner of the state of North Dakota.

Dated this _____ day of _____, 19 ____, at _____
(date) (month) (city)

Business name

Business address

Authorized signature

Date

If such contractor or subcontractor is also engaged in the retail trade and part or all of the machinery, equipment, material, or supplies the contractor or subcontractor uses in carrying out the contractor's or subcontractor's construction contract are taken from the contractor's or subcontractor's stock which was purchased for resale, the contractor or subcontractor must report in the contractor's or subcontractor's sales and use tax return on line two at this purchase price the value of the machinery, equipment, materials, or supplies so used or consumed by the contractor or subcontractor in carrying out the construction contract regardless of whether or not the merchandise becomes a part of the real property (see section 81-04-02-31). If the contractor-retailer takes material from the contractor-retailer's stock which had been purchased for resale and installs that material or attaches it to real property situated outside of North Dakota, the contractor-retailer is not required to pay North Dakota sales tax on the purchase price of such material.

If such construction contractor or subcontractor assembles, fabricates, or manufactures part of the articles used or consumed by the contractor or subcontractor in carrying out the contractor's or subcontractor's construction contract, the contractor or subcontractor will be liable for the sales tax on the cost of any materials, items, or supplies incorporated into the articles or used in the assembling, fabricating, or manufacturing of such articles.

Effective July 1, 1979, the sales tax law was changed so that if a contractor or installer of carpet, drapery, or drapery hardware is also the retailer who sold those products, the transaction is regarded as a retail sale and not as an installation into real property. Only installers who are also retailers are allowed to treat this as a retail sale. A construction contractor who is not

a retailer and who purchases carpeting, drapery, or drapery hardware and installs those materials into the contractor's home or into a home the contractor is building either on contract or speculation is required to pay tax to the supplier on the selling price or the contractor may offer a "contractor's certificate" to the seller and the contractor is then responsible for payment of the sales tax on the cost of the contractor's materials which the contractor installs.

Construction contracts as defined in classification four above are those in which a definite agreement is made to actually sell tangible personal property at an agreed price. Under this type of construction contract there must be a definite and specific agreement between the buyer and the seller that the title to the machinery, equipment, materials, or supplies passes to the buyer prior to the installation thereof. In the absence of proof of such a definite and specific agreement, the contract shall not be considered as meeting the requirements of the construction contract defined in classification four above.

The following is a list of those contracts falling within the definition of construction contracts:

1. Air conditioning units (central plant installation as distinguished from portable units).
2. Ash removal equipment (installed as distinguished from portable units).
3. Automatic sprinkler systems (fire protection).
4. Awnings and venetian blinds.
5. Boilers (installed as distinguished from portable units).
6. Brick work.
7. Builder's hardware.
8. Burglar alarm and fire alarm fixtures.
- 9:--~~Carpet installation:~~
- 10: 9. Caulking materials work.
- 11: 10. Cement work.
- 12: 11. Coal handling equipment (installed as distinguished from portable units).
- 13: 12. Concrete work.
- 14: 13. Conveying systems (installed as distinguished from portable units).
- 15:--~~Drapery installation:~~
- 16: 14. Electric conduit work.
- 17: 15. Electric distribution lines.

- 18- 16. Electric transmission lines.
- 19- 17. Electric wiring and connections.
- 20- 18. Flooring work (except carpet).
- 21- 19. Furnaces, heating boilers, and heating units.
- 22- 20. Furniture, prefabricated cabinets, counters, and lockers (installed as distinguished from portable units).
- 23- 21. Generators (installed as distinguished from portable units).
- 24- 22. Glass and glazing work.
- 25- 23. Gravel work.
- 26- 24. Lathing work.
- 27- 25. Lead work.
- 28- 26. Lighting fixtures.
- 29- 27. Lime work.
- 30- 28. Lumber and carpenter work.
- 31- 29. Macadam work.
- 32- 30. Mill work installed.
- 33- 31. Mortar work.
- 34- 32. Oil work.
- 35- 33. Paint booths and spray booths (installed as distinguished from portable units).
- 36- 34. Painting work.
- 37- 35. Paneling work.
- 38- 36. Papering work.
- 39- 37. Passenger and freight elevators.
- 40- 38. Piping valves and pipe fitting work.
- 41- 39. Plastering work.
- 42- 40. Plumbing work.
- 43- 41. Putty work.

- 44: 42. Refrigeration units (central plants installation as distinguished from portable units).
- 45: 43. Reinforcing mesh work.
- 46: 44. Road construction (concrete, bituminous, gravel, etc.).
- 47: 45. Roofing work.
- 48: 46. Sanding work.
- 49: 47. Sheet metal work.
- 50: 48. Signs (other than portable).
- 51: 49. Sodding.
- 52: 50. Steel work.
- 53: 51. Stone work.
- 54: 52. Stucco work.
- 55: 53. Tile work, ceiling, floor, and walls.
- 56: 54. Turbines (installed as distinguished from portable units).
- 57: 55. Turbo-generator units (installed as distinguished from portable units).
- 58: 56. Underground gas mains.
- 59: 57. Underground sewage disposal.
- 60: 58. Underground water mains.
- 61: 59. Vault doors and equipment.
- 62: 60. Wallboard work.
- 63: 61. Wall coping work.
- 64: 62. Wallpaper work.
- 65: 63. Weather stripping work.
- 66: 64. Wire net-screen work.
- 67: 65. Wood preserving work.

This list is not intended to be all inclusive, but is merely for the purpose of illustrating the application of section 81-04-02-48.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19,
57-40.2-13

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04,
57-39.2-10,
57-39.2-19,
57-40.2-01,
57-40.2-02.1,
57-40.2-05,
57-40.2-06,
57-40.2-09,
57-40.2-13,
57-40.2-14

81-04-02-53. AUTOMOBILE WASHING, WAXING, AND LUBRICATION. Wash, wax, polish, and grease jobs performed by garage persons and service station operators are services which are not taxable under the sales tax law. Soap, wax, polish, rags, grease, and lubricants consumed used by garage persons and service station operators are subject to the sales tax when they are purchased by a garage or service station operator for that purpose. If lubricants are sold separately and apart from the rendering of lubrication service and in each case where the customer is billed separately for greases or lubricants consumed used in the greasing job, the tax applies upon the gross receipts from such sales.

Coin-operated automobile washes are also considered to be services and the gross receipts from such coin-operated devices are not subject to sales tax. Any vending machines which dispense tangible personal property costing more than fifteen cents will be subject to sales tax on the total gross receipts from such vending machines. The gross receipts from these vending machines are taxable regardless of whether they dispense detergents, wax, disposable rags or chamois, or whether they dispense either soft drinks or food or both for immediate consumption.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04

81-04-02-55. AUTOMOBILE BODY AND PAINT SHOPS. Automobile body and paint shops, including garages which operate a body or paint shop, are engaged in the business of repairing and restoring tangible personal property belonging to others and also in the business of selling tangible personal property at retail. Persons engaged in such business are required to hold a retail sales tax permit.

Materials and supplies purchased by an auto body or paint shop which may be either sold at retail or used and consumed in repair work may be purchased as

items for resale. This includes only those items which become a part of the automobile or other article being repaired or items stocked for resale. Such items include windshields and window glass, radiators, grills, bumpers, fenders, hoods, trunk lids, doors, trim, paint, ~~paint-thinner~~; body filler, body putty, body lead, and accessories. These articles, when sold and billed separately to the customer, are subject to sales tax and should be included on line one of the sales tax report as gross sales.

Materials purchased which are used and consumed in repair work and which do not become a part of the finished product are subject to the sales tax at the time of purchase. These items may not be purchased as items for resale. These items normally include masking tape, paint thinner, masking paper, sandpaper, sanding discs, hand tools, and shop equipment. These materials and supplies are normally used and consumed by the repairer and are taxable to the repairer at the time of the purchase.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04,
57-39.2-11,
57-39.2-14

81-04-02-59. SALES OF ICE. All sales of ice to a final user or consumer are taxable ~~unless the ice becomes an ingredient part of food or drink to be sold at retail or unless the ice is sold for resale.~~

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04

81-04-02-63. TICKETS AND ADMISSIONS TO PLACES OF AMUSEMENT - CHARGES FOR PARTICIPATION IN AMUSEMENT. The tax is imposed upon the gross receipts from the sales of tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity, including the playing of any machine for amusement or entertainment in response to the use of a coin.

Where the taxpayer maintains such records that the amount of the federal excise tax may be determined, the amount thereof will be deductible from the gross receipts subject to the sales tax.

Complimentary tickets shall be taxable on the same amount as the regular admission charge.

The term "admission" includes regular dues or fees paid which entitle one to usual club or similar organization privileges. Where theaters or other places of amusement operate stores or stands for the sale of tangible personal property and sell at retail, they must collect and remit the tax.

As a guide for the purpose of clarifying the application of this section, the following items are regarded as subject to sales tax. This list is not intended to be all-inclusive, but serves merely to illustrate the application of the section.

The gross receipts from tickets, admissions or charges incident to the following activities:

1. Shows of all kinds, including theaters, moving picture shows, tent shows, circuses, carnivals. (See section 81-04-02-64.)
2. Dances and balls.
3. Amusement park general admission.
4. Games (baseball, football, basketball).
5. Boxing and wrestling events.
6. Races, displays, exhibitions, concerts, festivals, rodeos, derbies, celebrations, and the like.
7. Pleasure rides in airplanes and power or speed boats.
8. Pleasure rides of all kinds commonly conducted at amusement parks, fairs, circuses, carnivals, and street festivals. All concessions, shows, exhibits, etc., conducted at such places for the amusement and entertainment of the public, including shooting galleries, striking machines, cane racks, strength or skill testing machines, fortune telling.
9. Golf, tennis, polo, billiards, bowling, using a golf driving or practice green, swimming pool, trampoline, horseback riding, trap and skeet shooting.

All concessions selling tangible personal property such as food, confections, drinks, novelties, photos, and other miscellaneous items must collect and remit the tax.

Refer to sections 81-04-02-21 and 81-04-02-22 for application of sales tax as it applies to admission receipts by public and parochial schools.

Nonprofit community groups which sponsor concerts, lectures, or other events may or may not be required to charge sales tax on admissions, depending upon the disposition of the net receipts and the location of the event. (See section 81-04-02-21.)

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-03.2,
57-39.2-04,
57-39.2-20

81-04-02-64. FAIRS - ADMISSIONS. The receipts from the sales of tickets or admissions to state, county, district, and local fairs are exempt from the sales tax. The exemption does not apply to concessionaires or any activities which are not directly and entirely controlled by the fairs. (See section 81-04-02-63.) The fact that fairs enter into contracts with concessionaires on a percentage basis for the privilege of conducting exhibitions, games, or entertainment does not exempt that concession from payment of the tax on its gross receipts. However, sales of tickets for all activities operated during the fair and entirely controlled by the fair board are exempt from the tax.

All concessions selling tangible personal property such as prepared foods, drinks, novelties, photographs, and other miscellaneous items must collect and remit North Dakota sales tax.

Nonprofit community groups which sponsor concession stands may have to collect North Dakota sales tax on all sales of prepared foods, drinks, novelties, or other miscellaneous items depending upon final disposition of the net receipts and location of the stand. (See section 81-04-02-21.)

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-03.2,
57-39.2-04,
57-39.2-20

81-04-02-67. SCHOOL, COLLEGE, OR UNIVERSITY DINING ROOMS. Public school boards, high school boards, churches, religious organizations, colleges, universities, or private schools operating lunch rooms, cafeterias, or dining rooms for the exclusive purpose of providing students with meals are **deemed not to be** engaged in the business of selling tangible personal property at retail and will not be held liable for the payment of sales tax **with--respect--to** on such receipts.

Persons selling food products to the above boards, organizations, institutions, or nonprofit organizations for use by them in providing meals to

students are not ~~deemed-to-be~~ making sales at retail and are not required to pay tax ~~with-respect-to~~ on those gross receipts ~~derived-therefrom~~.

When any cafeteria, lunch, or dining room is available for use by the public, the school, college, university, church, or religious or nonprofit organization operating it becomes engaged in the business of selling tangible personal property at retail and is liable for the tax.

Caterers or concessionaires operating cafeterias, lunch rooms, or dining rooms for profit on the premises of any college, school, or university even though primarily patronized by students of such institutions are responsible for collecting the tax.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04

81-04-02-69. COLLEGE OR UNIVERSITY BOARDING CONTRACTS. Effective July 1, 1971, food purchased by a student under a boarding contract with a college or university is exempt from North Dakota sales tax.

Persons selling food products to colleges or universities for use by them in providing meals to students under a boarding contract are ~~deemed not to-be~~ making sales at retail and are not required to pay tax ~~with-respect-to-the~~ on those gross receipts ~~derived-therefrom~~.

Where colleges or universities engage in the business of serving meals to persons other than students for which separate charges are made or where they operate canteens through which tangible personal property is sold at retail, they become liable for the tax.

See section 81-04-02-20.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04

81-04-02-80. LAUNDRIES, DRY CLEANERS, ETC. Persons engaged in the operation of laundries, dry cleaning, and like establishments render service, the receipts of which are not subject to the retail sales tax. Such operators are deemed to be the final users or consumers of the tangible personal property, including laundry equipment, hangers, plastic or paper garment bags, dry cleaning

solutions, chemicals, laundry soaps, bleach, etc., which they purchase for use in the rendition of such services and the receipts from such sales to such operators are subject to the sales tax at the time of purchase.

The gross receipts from coin-operated laundry or dry cleaning machines are not subject to sales tax. The sale of soaps, bleaches, and other tangible personal property are subject to sales tax unless these items are dispensed for fifteen cents or less through coin-operated vending machines. Receipts from such all coin-operated vending machines are taxable if the sales price is sixteen cents or more. Sales of these items directly and not through the use of a coin-operated vending machine are taxable.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-03.3,
~~57-39.2-04~~
57-39.2-04

81-04-02-81. SHOE REPAIRERS. Persons engaged in the business of repairing shoes are ~~deemed-to-be-engaged-in~~ rendering service, the gross receipts from which are not subject to the sales tax. Such repairman is ~~deemed-to-be~~ the final user or consumer of tangible personal property purchased by the repairman for use in rendering such service, and such sales to the repairman are subject to the sales tax.

If, however, the repairman, in addition to rendering such services, also sells tangible personal property at retail, then the repairman must collect the sales tax on such sales and remit to the state.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04,
57-39.2-20

81-04-02-85. PHOTOGRAPHERS, PHOTO FINISHERS, AND PHOTOSTATERS. Where films are delivered to photographers or photo finishers for developing, printing, and furnishing one proof or print of each exposure, the charge made by such photographers or photo finishers is compensation for a service and is not subject to the tax. However, any prints finished in addition to the first proof shall be considered sales at retail and the receipts ~~therefrom~~ shall be subject to the tax. Where negatives which have been previously developed are delivered to a photographer or photo finisher and finished prints made ~~therefrom~~ and sold to a

customer, such sale is one of tangible personal property to a final buyer and is subject to the tax.

When a photographer agrees for a fixed price to take a picture and furnish one or more finished pictures or photographs, the sales tax applies upon the full sales price to the customer.

In case a photographer makes a separate "sitting charge" in good faith, the photographer may deduct such charge from the photographer's sales tax base, but in no case will the photographer be permitted to deduct more than thirty percent from such total cost of photographs.

When a photostat producer makes and sells photostatic copies or a person prints and sells blueprints, the sale is one of tangible personal property for use, and the sales tax must be imposed upon the full sales price.

In cases where individuals deliver pictures to photographic studios for tinting or coloring, the receipts of the photographic studio resulting from the performance of this service are not taxable. But sales of frames, films, and other articles by photographers or photo finishers to purchasers for use are sales at retail and are taxable.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04

81-04-02-87. FLORISTS AND NURSERYMEN. Florists and nurserymen selling flowers, wreaths, plants, shrubs, roots, bulbs, trees, seeds, and other tangible personal property at retail are liable for tax on their gross sales, notwithstanding the fact that such merchandise shall have been produced by the seller. Where shrubbery, young trees, and similar items are sold, and as part of the transaction the seller transplants them for the purchaser buyer for a lump sum or flat rate, ~~the--entire-receipts-from-the-transaction-are-subject-to-the-tax-~~ (Also-see-section-81-04-02-13-) the sales tax is to be computed on the cost of such merchandise. The transaction is regarded as an installation into real property and the rules governing attachments to real property govern this transaction. In this connection, see section 81-04-02-48.

Where florists conduct transactions through a florists' telegraphy delivery association, the following rules will apply in the computation of tax liability:

1. On all orders taken by a North Dakota florist and sent to a second florist in North Dakota for delivery in the state, the sending florist will be held liable for sales tax on the sending florist's receipts from the total amount collected from the customer.
2. In cases where a North Dakota florist receives an order pursuant to which the florist sends instructions to a second florist located outside

North Dakota for delivery of flowers to a point outside North Dakota, tax will likewise be owing with respect to the total receipts of the sending florist from the customer who placed the order.

3. In cases where North Dakota florists receive telegraphic instructions from other florists located either within or outside of North Dakota for the delivery of flowers, the receiving florist will not be held liable for tax with respect to any receipts which he may realize from the transaction. In this instance, if the order originated in North Dakota, the tax will be due from and payable by the North Dakota florist who first received the order and gave telegraphic instructions to the second florist.

Flowers sold to a funeral director are sales made to a final user and are subject to sales tax. See section 81-04-02-46.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-20

81-04-02-91. SALE OF TRADED-IN PROPERTY. When one article is traded in on another article, the sales tax will apply only on the difference of value between the two articles. The second-hand article in turn will be subject to the sales tax when resold.

Thus, for instance, if a company sells a tractor for ten thousand dollars and accepts from the purchaser as part consideration of the purchase price a used tractor at the agreed value of three thousand dollars, the sales tax applies on the seven thousand dollars difference. The sales tax on the old machine traded in will be due and payable when the machine is later sold to a user. This section applies on all trade-in transactions except those set out below.

Whenever any property which is not subject to the sales tax or to the motor vehicle excise tax imposed by North Dakota Century Code chapter 57-40.3, such as livestock, is taken as part consideration of the purchase price, the purchaser will be required to pay sales tax on the full purchase price.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1

81-04-02-95. PURCHASES AND SALES BY NATIONAL BANKS, STATE BANKS, TRUST COMPANIES, AND SAVINGS AND LOAN ASSOCIATIONS. Effective July 1, 1971, national banks, state banks, trust companies, building and loan associations, and savings and loan associations are subject to North Dakota sales tax or North Dakota motor vehicle excise tax on purchases for their own use and consumption. Retailers must collect and remit sales tax on all sales of tangible personal property and taxable services to such institutions.

Such institutions, when engaged in the business of purchasing tangible personal property for sale, lease, or rental at retail, are subject to the North Dakota sales tax and are required to collect and remit the tax from their customers on all such sales of tangible personal property and on receipts derived from the leasing or renting of tangible personal property to their customers.

When financial institutions purchase or otherwise acquire tangible personal property for use as premium merchandise to offer to depositors as an inducement to deposit funds with such financial institutions, the sales tax shall apply on the full purchase price of such tangible personal property to the financial institution. The seller of such tangible personal property should charge and collect the sales tax on the selling price to the financial institution. If the seller fails to collect, the financial institution is responsible for reporting the purchase of such merchandise to the tax department and for payment of the sales tax on the purchase price thereof. If such premium merchandise is subsequently sold at a reduced price to depositors, no sales tax is to be collected by the financial institution.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-20,
57-40.3

81-04-02-97. CHURCHES AND OTHER NONPROFIT ORGANIZATIONS - SALES BY AND TO. Churches and other religious and nonprofit organizations may conduct sales or sponsor other fund-raising activities without being subject to the collection of sales tax as long as the net proceeds of such sales or activities are expended for educational, religious, or charitable purposes and as long as these sales or other activities are not held in a publicly owned facility. If such events are held in a publicly owned facility, the church, religious, or other nonprofit organization is responsible for collection and payment of sales tax on all such sales and activities. Net proceeds shall mean gross receipts less necessary business expenses such as purchase of goods for sale, advertising expense, rental of facilities and so forth. (Also see section 81-04-02-23.)

Churches and other religious and nonprofit organizations operating a school lunch program in a private nonprofit school which conducts courses of study similar to those conducted by public schools in this state may purchase food supplies without paying North Dakota sales tax. (See sections 81-04-02-68 and 81-04-02-105.)

Churches and other religious and nonprofit organizations operating private, nonprofit elementary or secondary schools or institutions of higher learning conducting courses of study similar to those conducted by public schools in this state may purchase textbooks, yearbooks, and school supplies without paying the North Dakota sales tax. (See section 81-04-02-19.)

When a church or any other religious, educational, charitable, or nonprofit institution purchases tangible personal property for its own use, it is ~~deemed--to be~~ making purchases at retail which are subject to the tax except as outlined above or as specifically exempted by statute.

Effective July 1, 1975, the purchase by nonprofit religious organization of Bibles, hymnals, prayer books, and textbooks are specifically exempt from the sales tax.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04

81-04-02-105. FOOD AND FOOD PRODUCTS FOR HUMAN CONSUMPTION. Effective July 1, 1973, the gross receipts from sales of food and food products for human consumption are exempt from North Dakota sales tax when such products are purchased by consumers for consumption off the premises where purchased.

Food and food products shall include but shall not be limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, poultry, fish, and other fresh and saltwater animal products, eggs and egg products, vegetable products, fruit and fruit products, spices, salt, sugar products including candy and confectionary products, chewing gum, coffee and coffee substitutes, tea, cocoa and cocoa products, and carbonated beverages.

Food and food products shall not include any alcoholic beverages or mixed drinks made therefrom, bottled water, medicines or preparations sold as dietary supplements, and such obvious nonfood products as paper and tin products, cigarettes and tobacco, cleaning supplies, cosmetics, light bulbs, detergents, and disinfectants, and products for nonhuman consumption such as pet food and bird seed.

Candy, confectionary, breath mints, and nonmedicated chewing gum are included within the definition of food products for human consumption and are exempt from sales tax when purchased for consumption off the premises where purchased. These same products sold at a theatre concession stand, a bar or tavern, ballpark concession stands and other places where the products will be immediately consumed on or near the premises remain taxable. Any chewing gum containing aspirin, laxative, or other medication is not a food product and is, therefore, subject to the tax.

Sales of meals and other sales of food products prepared for immediate consumption on or near the premises of the seller shall remain subject to the sales tax. Sales of these food products are taxable sales even though such products are sold on a "take-out" or "to go" order by restaurants, drive-ins, etc., and are actually packaged or wrapped and taken from the premises. Examples of food products which are considered to be sold for "immediate consumption" includes sales by street vendors such as popcorn carts or stands, sales from lunch carts in an industrial plant or on job sites, sales of food products including soft drinks from vending machines, sales at carnivals or fair concessions, sales by vendors at athletic events, and sales by restaurants, cafes and drive-ins.

When a package contains both food and nonfood products, such as a child's sandpail containing nesting material and a few ounces of Easter candy or an ice bucket containing cheese samples or a woven basket filled with fruit, then the value of the nonfood product must be compared with the value of the food product to determine if the total package shall be exempt or shall be subject to the North Dakota sales tax. If the value of the nonfood item exceeds fifty percent of the total selling price, then the entire sale shall be subject to the tax.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04.1

81-04-02-106. SALES TO AMERICAN INDIANS - SALES ON AN INDIAN RESERVATION. On July 12, 1973, the North Dakota supreme court upheld a district court decision which ruled that the state of North Dakota has no authority under present federal law to impose North Dakota sales tax on American Indians living on an Indian reservation.

The court decision will have the following effects on sales tax transactions:

1. An Indian retailer whose place of business is located within the boundaries of an Indian reservation in this state cannot be required to hold a North Dakota sales tax permit and cannot be required to collect North Dakota sales tax on sales to any customer - Indian or non-Indian.
2. A non-Indian retailer whose place of business is located within the boundaries of an Indian reservation may not collect sales tax on sales to Indian customers but must continue to collect and remit North Dakota sales tax on all sales to non-Indian customers.
3. Any retailer, Indian or non-Indian, whose place of business is outside the boundaries of an Indian reservation but who makes deliveries to Indian customers living within the boundaries of an Indian reservation may exempt those sales providing that the retailer maintains adequate records supporting the exempt status of the sale.

4. All sales to American Indians which take place outside the boundaries of an Indian reservation are fully subject to sales tax.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04

81-04-02-109. NONPROFIT MEAL DELIVERY ORGANIZATIONS. Effective July 1, 1977, the gross receipts from sales to any nonprofit meal delivery organization shall be exempt from North Dakota sales tax.

Such sales shall include the meals, containers, packages, and materials used for wrapping food items for delivery to persons who are confined to their homes by illness or incapacity, including but not limited to senior citizens and disabled persons, for consumption by such shut-ins in their homes.

The purchase by any nonprofit meal delivery organization of cleaning supplies, office supplies, or other materials not directly connected with either the food or containers or both to provide meals to senior citizens and disabled persons shall remain subject to the sales or use tax.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04

81-04-02-116. MOBILE HOMES - SALE AND RENTAL. Persons engaged in the business of selling or leasing factory-manufactured homes, including mobile homes, modular living units, or sectional homes, are generally subject to sales tax on the gross receipts derived from such sales or leases. Factory-manufactured homes are considered to be tangible personal property as opposed to real estate and are, therefore, subject to the retail sales tax. If the manufacturer or seller of such factory-manufactured homes also permanently attaches such homes to a foundation, the manufacturer or seller may will be treated as a construction contractor and will be liable for tax based on the cost of materials to that manufacturer or seller. (See sections 81-04-02-48 and 81-04-02-49.)

1. Trade-ins. Persons engaged in the sale of factory-manufactured homes often accept trade-ins of other homes, vehicles, and other tangible personal property. These trade-ins are to be deducted from the gross sales prior to application of the sales tax, provided that the property being traded in has been or will be subject to either the sales tax

imposed by North Dakota Century Code chapter 57-39.2 or the motor vehicle excise tax imposed by North Dakota Century Code chapter 57-40.3.

2. Leasing or renting of mobile homes for residential purposes. Leasing or renting of mobile homes for residential housing for periods of more than thirty consecutive days is exempt from sales tax. However, the leasing or renting of mobile homes for other than residential housing is subject to sales tax, regardless of the period of time during which the home is rented. If a mobile home dealer uses a mobile home as an office, the cost of that mobile home to the dealer becomes subject to sales or use tax.
3. Real estate brokers - resale of used mobile homes. Licensed real estate brokers may sell, buy, solicit prospective purchases of, solicit or obtain listings of, or negotiate the purchase, sale, or exchange of any mobile home if the mobile home has been registered under the provisions of North Dakota Century Code chapter 39-18 for at least two years. No real estate broker shall maintain a place of business where two or more mobile homes are displayed and offered for sale, unless the broker is also licensed as a mobile home dealer.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-39.2-19

Law Implemented
NDCC 57-39.2-01,
57-39.2-02.1,
57-39.2-04

81-04-03-06. EXEMPTIONS. The use tax law exempts from the use tax in this state:

1. Any tangible personal property the sale of which has been subject to the North Dakota retail sales tax.
2. Tangible personal property brought into this state by a nonresident thereof for the nonresident's own storage, use or consumption while temporarily within this state, except that such property shall not be exempt if brought into this state for storage, use or consumption in the conduct of a trade, occupation, business, or profession.
3. Tangible personal property for resale in the regular course of business.
4. Tangible personal property upon which the state now imposes and collects a special tax, whether in the form of license tax, stamp tax, or otherwise. (See section 81-04-02-11.)
5. Tangible personal property used in "processing". (See section 81-04-03-01.)
6. Railway cars and locomotives used in interstate commerce, and tangible personal property which becomes a component part thereof.

7. Motor vehicles taxable under the provisions of the motor vehicle excise tax laws of North Dakota.
8. Tangible personal property, which has already been subjected to a sales or use tax in an amount equal to the rate of tax in this state by another state, provided that state gives a similar credit. (See section 81-04-03-03.)
9. Newsprint and ink actually used in the publication of a newspaper.
10. Leasing or renting of motion picture film to motion picture exhibitors for exhibiting in this state if the sale of tickets or admissions to the exhibition of the film is subject to the sales tax imposed by North Dakota Century Code chapter 57-39.2.
11. Leasing or renting of mobile homes for residential housing for periods of more than thirty consecutive days. Effective July 1, 1971.
12. Bibles, hymnals, textbooks, and prayer books sold to and used by nonprofit religious organizations.
13.
 - a. Artificial devices individually designed, constructed, or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual.
 - b. Artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body.
 - c. Artificial teeth sold by a dentist.
 - d. Eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.
 - e. Crutches and wheelchairs for the use of invalids and crippled persons.
 - f. Equipment, including manual control units, van lifts, van door opening units, and raised roofs, for attaching to or modifying a motor vehicle for use by a permanently physically disabled person.
 - g. Equipment, including elevators, dumb waiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling.
 - h. Equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by permanently physically disabled persons.
14. Any tangible personal property or service which would be exempt from the retail sales tax pursuant to an express exemption provided in North

Dakota Century Code chapter 57-39.2 if it were purchased in North Dakota.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-40.2-13

Law Implemented
NDCC 57-40.2-01,
57-40.2-02.1,
57-40.2-03.2,
57-40.2-04

81-05-02-03. PURCHASE PRICE DEFINED. "Purchase price" means the total amount paid for the motor vehicle whether received in money or otherwise, provided, however, that when a motor vehicle which will be subject to the motor vehicle excise tax or other tangible personal property which will be subject to a sales or use tax when sold or used is taken in trade as a credit or part payment on a motor vehicle taxable under North Dakota Century Code chapter 57-40.3, the credit or trade-in value shall be deducted from the total selling price to establish the purchase price of the vehicle being sold. The trade-in allowance allowed by the seller on a motor vehicle accepted as a trade-in shall constitute the purchase price of the motor vehicle accepted as a trade-in.

When a motor vehicle is acquired by gift or by any other transfer for a nominal or no monetary consideration, the purchase price will reflect the average value of similar motor vehicles, established by standards and guides as determined by the motor vehicle registrar.

In those instances where a motor vehicle is manufactured by a person who registers it under ~~the laws of this state; the "purchase price" shall mean the manufactured cost of the motor vehicle; and "manufactured cost" shall mean the amount expended for materials; labor; and other property allocable costs of manufacture~~ North Dakota Century Code chapter 39-04 for the first time, such motor vehicle shall be exempt from motor vehicle excise tax. Component parts purchased to manufacture such vehicle are subject to sales or use tax. In the absence of actual expenditures for the manufacture of a part or all of a motor vehicle; "manufactured costs" shall mean the reasonable value of the completed motor vehicle.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-40.3-12

Law Implemented
NDCC 57-40.3-01,
57-40.3-05

81-05-02-04. EXEMPTIONS. The following are exempt from payment of the North Dakota motor vehicle excise tax:

1. Motor vehicles owned by disabled veterans pursuant to conditions set forth in North Dakota Century Code section 57-40.3-04.
2. Any motor vehicle owned by or in possession of the federal or state government or a political subdivision thereof.
3. Motor carrier vehicles in excess of twenty thousand pounds [9,049 kilograms] gross weight, whether owned or leased, engaged in interstate commerce but only to the extent their revenue from interstate hauling bears to their total revenue from hauling for the preceding operating year.
4. Any motor vehicle transferred without consideration to or from a person thirty days prior to service, during such service, or within thirty days after service in the armed forces of the United States, provided the person certifies to the motor vehicle registrar that the transfer is made only by reason of entering into, serving in, or being discharged from the armed services of the United States.
5. Motor vehicles acquired by inheritance from or by bequest of a decedent who owned the vehicle; the transfer of motor vehicles which were previously titled or licensed in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more of the joint tenants; the transfer of motor vehicles by way of gift between a husband and wife, parent and child, or brothers and sisters; and the transfer of a motor vehicle to reflect a new name of the owner caused by a business reorganization but the ownership of which business organization remains in the same person or persons as prior to the reorganization. (See section 81-05-02-10.)
6. Motor vehicles transferred between a lessee and lessor, provided that the lessee has been in continuous possession of such vehicle for a period of one year or longer, and further provided that the lessor has paid either the motor vehicle excise tax imposed by North Dakota Century Code chapter 57-40.3 at the time of titling or licensing the vehicle in this state or the use tax imposed by North Dakota Century Code chapter 57-40.2.
7. Any motor vehicle in the possession of and used as a bus exclusively by a nonprofit senior citizens' or handicapped persons' corporation, provided that such bus shall not be used for commercial activities.
- ~~8. Title changes for motor vehicles as a result of business reorganization. (See section 81-05-02-10.)~~
- 9- 8. Vehicles in possession of school districts, used for driver education instruction.
- ~~10-~~ 9. Vehicles owned by or in possession of any state institution in this state.
- ~~11-~~ 10. Title changes for motor vehicles as a result of name changes resulting from adoption, court order, marriage, or divorce.

11. Any motor vehicle being registered pursuant to North Dakota Century Code chapter 39-04 for the first time by a person who manufactured or assembled the motor vehicle for that person's own use.
12. Any motor vehicle which does not exceed ten thousand pounds [4,535.91 kilograms] gross weight and which is acquired by a permanently physically disabled, licensed driver who is restricted to operating only motor vehicles equipped with special controls to compensate for the disability, or by a permanently physically disabled individual who has either surrendered or who has been denied a driver's license because of a permanent physical disability, provided the individual obtains from the state highway commissioner or the highway commissioner's authorized representative a statement that the individual has such a restricted driver's license or has either surrendered or has not been issued a driver's license because of a permanent physical disability.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-40.3-12

Law Implemented
NDCC 57-40.3-04

81-06-02-01. ELIGIBILITY FOR REFUND. Any person who buys or uses motor vehicle fuel or aviation fuel (gasoline) on which the motor vehicle fuel tax has been paid may obtain a refund upon application to the tax commissioner if such fuel has been used for agricultural or industrial purposes, except motor vehicle fuel used in motor vehicles operated or intended to be operated in whole or in part upon any of the public highways of this state, on which the motor vehicle fuel tax has been paid may obtain a refund upon application to the tax commissioner if such fuel has been used for agricultural or industrial purposes. Those refund claims for aviation gasoline fuel taxes will be reduced by the four percent aviation fuel tax levied under North Dakota Century Code chapter 57-56. No claim will be allowed unless it is in excess of ten dollars: Provided, however, the amount of such tax refund shall be reduced by one-eighth cent per gallon [3.79 liters], and the one-eighth cent per gallon [3.79 liters] withheld from the refund shall be deposited in the agriculturally derived alcohol motor vehicle fuel tax fund.

Any person who buys or uses aviation fuel (gasoline) on which the motor vehicle fuel tax has been paid may obtain a refund upon application to the tax commissioner. Those refund claims for aviation fuel (gasoline) taxes will be reduced by the four percent aviation fuel tax levied under North Dakota Century Code chapter 57-56 and by the one-eighth cent per gallon [3.79 liters] referred to above.

No refund claim for motor vehicle fuel tax or aviation fuel tax will be allowed for less than ten dollars.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-50-07

Law Implemented
NDCC 57-50-01,

57-50-03

81-06-02-06. ASSIGNMENT OF TAX ON AGRICULTURAL PURCHASES OF GASOLINE. The period during which dealers can take assignments on agricultural fuel sales for credit on their tax returns is April, May, June, July, August, and September. Tickets must be thirty days old before credit can be allowed on dealers' returns. Before any person shall be allowed to assign the person's motor fuel tax refund to the seller during this period, the person must have an unrevoked permit issued by the tax commissioner authorizing such assignment. Application forms may be obtained from the state tax commissioner. There is no fee for a permit.

Those persons who have a valid tax assignment permit issued by the state tax commissioner under the provisions of North Dakota Century Code section 57-50-11.1 shall be charged one-eighth cent per gallon [3.79 liters] by the dealer and the one-eighth cent charge shall be remitted to the state tax commissioner by the dealer when the dealer submits the tax assigned invoices for credit. The one-eighth cent per gallon [3.79 liters] shall be deposited in the agriculturally derived alcohol motor vehicle fuel tax fund.

All tickets must have the following items completed and listed on each ticket:

1. Tax must be listed on all tickets.
2. Purchaser's permit number must be listed on assigned tickets.
3. Address of purchaser.
4. Tickets on which the tax is assigned must have a tax assignment agreement stamp thereon and signature of an assignor, and also goods received signature. One signature is not sufficient. In cases where the signature of the assignor or purchaser has not been obtained by the time the invoice is submitted for credit, the tax department will send a certification form for the dealer listing such purchases and certifying the tax on those purchases was intended to be assigned. Signed certifications must be submitted to the tax department by the dealer by the date specified on the form and must be signed by the purchaser and the dealer.

All tax assignments must meet the following conditions:

1. Custom combine tickets are not acceptable for assignment credit on monthly tax return.
2. Assignments will be accepted on agricultural fuel only in bulk deliveries of fifty gallons [189.27 liters] or more.
3. All invoices must have the carbon imprint on the reverse side.
4. Tickets must be tax assigned by the purchaser.

5. Sales of special fuels are not acceptable for assignment credit on dealer's report.
6. Assignment stamps should be placed where they least interfere with other items and signatures on the ticket.
7. If more than one item appears on the ticket, the gallonage on which tax is being assigned must be clearly indicated.
8. Only original tickets will be acceptable.

Tickets issued to a partnership must be assigned as follows:

1. If issued to Brown Brothers, the assignment agreement must be signed "Brown Brothers by John Brown, partner". If issued in individual names as "Bob and John Brown," the assignment agreement should be signed "Bob and John Brown by John Brown, partner". If the ticket is issued to the husband only, it must be signed by the husband, unless the wife signed the tax assignment permit application, in which case the wife could effect the assignment.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-50-07

Law Implemented
NDCC 57-50-11,
57-50-11.1

81-06-03-01. DEFINITION. "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 North Dakota Century Code section 19-10-10, except that it does not include gasoline. Special fuels include tractor fuel, diesel, kerosene, heater oil, furnace oil, burner fuel, butane, and propane gases.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-52-17

Law Implemented
NDCC 57-52-03

81-06-03-03. EXEMPTIONS AND REFUNDS. Those special fuels to be used for heating, agricultural, industrial, or railroad purposes are exempt from the eight cents per gallon [3.79 liters] special fuel tax with the exception of fuels sold to contractors performing government contracts. However, these fuels are subject to the two percent special fuels tax levy provided in North Dakota Century Code chapter 57-53. Sales of special fuels to the federal government are exempt from the tax.

Purchasers of special fuels who pay the eight cents per gallon [3.79 liters] tax but use the fuel for heating, agricultural, industrial, or railroad purposes may obtain a refund for tax paid except the two percent special fuel tax which will be deducted from the refund claim. This does not apply to contractors performing government contracts, since they are liable for eight cents per gallon [3.79 liters] tax.

Forms for refund claims may be obtained from the tax department.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-52-17

Law Implemented
NDCC 57-50-01,
57-50-03,
57-50-05,
57-50-05.1,
57-52-04

81-06-03-04. LICENSE AND BONDING. Anyone who wishes to act as a special fuel dealer in this state must obtain a special fuel dealer's license from the state tax commissioner. Applications for a special fuel dealer's license are available upon request from the tax commissioner. The applicant must submit this completed form along with a surety bond to assure compliance with the ~~Special Fuels-Tax-Act~~ special fuels tax act and the payment of all taxes. Separate licenses are required for each separate place of business or location where special fuels are regularly sold. The amount of the bond is based on the equivalent of two months of fuel tax collections, and in no event shall be less than five hundred dollars. Upon receipt of application and bond and upon payment of special fuel dealer's license fee of ten dollars, the state tax commissioner shall issue a license to act as a special fuel dealer. Licenses are nontransferable and remain valid until revoked for cause or otherwise canceled. ~~However; -the-bond-is-renewable-on-June-thirtieth-of-each-odd-numbered-year-~~

Those special fuel dealers who also wish to sell liquefied petroleum gas must obtain either a wholesale or retail liquefied petroleum gas license.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-52-17

Law Implemented
NDCC 57-52-05,
57-52-06,
57-52-07,
57-52-08,
57-53-10

81-06-03-05. LIQUEFIED PETROLEUM GAS - LICENSE - FEE - PERMIT - BOND. Anyone who wishes to act as a dealer in liquefied petroleum gas must obtain a wholesale or retail special liquefied petroleum gas dealer's license issued to-the

person by the state tax commissioner. The wholesale liquefied petroleum gas dealer must post a continuous surety bond with the tax commissioner equal to two months of liquefied petroleum gas tax collections and in no event less than five hundred dollars. The license fee is ten dollars and license remains in effect until revoked for cause or canceled by license holder. ~~The bond must be renewed on June thirtieth of each odd-numbered year.~~

The retail liquefied petroleum gas dealer must obtain an a liquefied petroleum gas retail dealer's permit biennially from the tax commissioner. The cost of the permit shall be one dollar and the permit expires June thirtieth of each odd-numbered year.

Each liquefied petroleum gas retail dealer shall be required to collect the two percent special fuels excise tax and remit those taxes to the state tax commissioner quarterly. Any sale of liquefied petroleum gas to a person who will utilize that liquefied petroleum gas to propel a motor vehicle shall be subject to the eight cents per gallon [3.79 liters] special fuels tax.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-52-17

Law Implemented
NDCC 57-53-04,
57-53-10

81-06-04-02. IMPOSITION OF TAX. Effective July 1, 1977, a tax of eight cents per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state. Every dealer who is required to collect the motor vehicle fuel tax shall charge and collect the tax on all motor vehicle fuel sold. Banks, trust companies, building and loan associations, and public and private educational facilities are subject to the eight cents per gallon [3.79 liters] tax.

A tax of four cents per gallon [3.79 liters] shall be imposed on gasoline sold which contains a minimum ten percent blend of an agricultural ethyl alcohol whose purity is at least ninety-nine percent alcohol.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-54-20

Law Implemented
NDCC 57-54-08

81-06-05-04. LICENSE AND BONDING. Any person seeking to transport fuel into this state in the fuel supply tank of any motor vehicle must obtain an importer for use license. All applications for such licenses shall be on forms furnished by the state tax commissioner. ~~Before any such applications may be approved by the commissioner, the applicant must file a bond payable to the state of North Dakota. The bond shall be an amount equal to twice the amount of the estimated quarterly tax liability, but in no case shall exceed twenty thousand dollars.~~ The license or permit issued by the commissioner or photocopy thereof

must be carried in the passenger compartment of each motor vehicle at all times when such motor vehicle is in this state. Quarterly returns must be filed with the North Dakota State--Tax--Commissioner state tax commissioner. Forms are available upon request.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-54.1-13

Law Implemented
NDCC 57-54.1-07,
57-54.1-08,
57-54.1-09,
57-54.1-11,
57-54.1-15

81-06-05-05. OCCASIONAL TRIP PERMIT. Any person who shall make no more than one trip or series of trips in any seventy-two hour period or two trips or series of trips in any two seventy-two hour periods into or through the state of North Dakota ~~in any one month~~ may secure an occasional trip permit for a five dollar fee in lieu of obtaining an importer for use permit. A permit can be obtained at the port of entry upon entering this state.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-54.1-13

Law Implemented
NDCC 57-54.1-12

81-06-06-02. REFUNDS. Any person who shall buy aviation gasoline or other motor fuel used by ~~aircraft~~ aircraft upon which the eight cents per gallon [3.79 liters] motor vehicle fuel tax or special fuel tax has been imposed may request a refund of such tax provided that the refund claim is in excess of ten dollars. The four percent aviation fuel tax will be deducted from any refund granted by the tax commissioner. Such refund claim for motor vehicle fuel tax shall be reduced by one-eighth cent per gallon [3.79 liters], and the one-eighth cent per gallon [3.79 liters] withheld from the refund shall be deposited in the agriculturally derived alcohol motor vehicle fuel tax fund. Refund claims for any special fuel tax refund shall not be reduced by such one-eighth cent per gallon [3.79 liters].

History: Amended effective September 1, 1979.

General Authority
NDCC 57-56-02

Law Implemented
NDCC 57-50-01,
57-50-02,
57-50-03

81-08-02-01. DEFINITIONS. As used in these sections and for the administration of North Dakota Century Code chapter 57-61, unless the context otherwise requires:

1. "Coal mine owner or operator" does not include any individual who mines coal from the individual's own land solely for use for heating the individual's own home.
2. "Industrial purposes" as applied to coal that has been severed includes the use of such coal for making products from it or for the consumption of such coal to produce power or heat, except that it does not include coal mined by an individual from the individual's own land for use for heating the individual's own home.
3. "Producer" means the coal mine owner, or the operator of the coal mine if different from the owner.
4. "Sale" as applied to coal that has been severed means any transfer of title, conditional or otherwise, to such coal for a consideration regardless of where such transfer of title occurs.
5. "Severed" as applied to coal means the actual separation and removal of coal from its natural position where situated in the coal bed in the earth and does not include the removal of it from the coal mine where it was situated or transportation of it away from such coal mine site.
6. "Tax commissioner" means the tax commissioner of the state of North Dakota.
7. "Wholesale price index" means the index of wholesale producer prices (formerly the index of wholesale prices) for all commodities that is prepared by the bureau of labor statistics in the United States department of labor.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-61-08

Law Implemented
NDCC 57-61

81-08-02-02. NATURE OF COAL SEVERANCE TAX. As provided in North Dakota Century Code section 57-61-01 the coal severance tax is a tax "imposed upon all coal severed for sale or for industrial purposes by coal mines within the state" of North Dakota. The tax is imposed at a rate of not less than sixty-five eighty-five cents per ton of two thousand pounds [907.18 kilograms] on coal severed in ~~this state during the two-year period beginning July 1, 1977; and ending June 30,~~ 1979. The method for determining any increase in the coal severance tax rate over the minimum rate of sixty-five eighty-five cents per ton [907.18 kilograms] is set out in section 81-08-02-04.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-61-08

Law Implemented
NDCC 57-61-01

81-08-02-04. COAL SEVERANCE TAX RATE. The coal severance tax rate is imposed at a minimum rate of sixty-five eighty-five cents per ton of two thousand pounds [907.18 kilograms] of coal severed, which rate shall increase by one cent per ton of two thousand pounds [907.18 kilograms] for each one-point four points of increase in the June 1977 1979 wholesale price index. The level of the wholesale price index as of June 1977 1979 as--prepared for all commodities as prepared by the bureau of labor statistics in the United States department of labor is hereby found to be one-hundred-ninety-four-and--four-tenths two hundred thirty-three and one-tenth, but if such level is revised by the bureau of labor statistics, such revised level shall be the wholesale price index for June 1979, for the purposes of this chapter.

The coal severance tax rate on coal severed during the period of July first through December thirty-first of any calendar quarter year period shall be the same for all coal severed during that period and the tax rate on coal severed during the period of January first through June thirtieth of any calendar year shall be the same for all coal severed during that period.

The coal severance tax rate on coal severed during any calendar quarter half-year period shall be determined by the tax commissioner and made available to coal mine owners and operators as early in such period as reasonably possible.

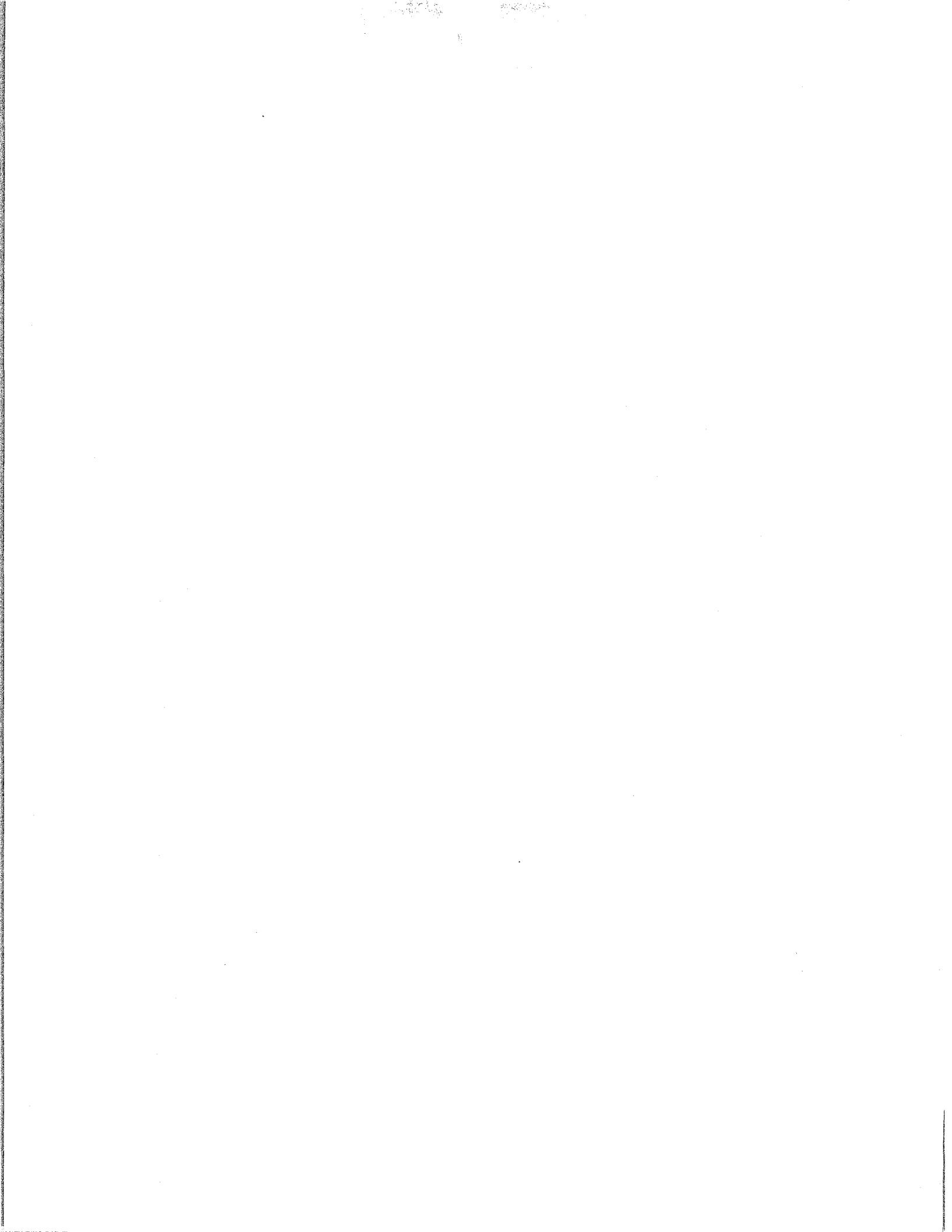
For purposes of determining the coal severance tax rate on each ton [907.18 kilograms] of coal severed in any calendar quarter half-year period, the tax commissioner shall compute the amount by which the wholesale price index for the month preceding that quarter half-year period increased over the June 1977 1979 wholesale price index of one-hundred-ninety-four-and-four-tenths; the tax rate per ton of two thousand pounds [907.18 kilograms] of coal severed in that quarter half-year period shall be sixty-five eighty-five cents plus one cent for each one point four points of such increase in the wholesale price index, except that such tax rate shall not be less than the highest tax rate per ton of two thousand pounds [907.18 kilograms] for any preceding calendar quarter half-year period.

For purposes of computation of the tax rate for each calendar half-year period, a fractional point increase in the wholesale price index shall be disregarded if less than one-half point and treated as a full point if one-half point or more; for example, if the June 1977 1979 wholesale price index of one hundred--ninety-four--and--four-tenths--had two hundred thirty-three and one-tenth increased to one-hundred-ninety-seven-and-nine-tenths two hundred forty and six-tenths in December-1977 June 1980, the tax rate per ton [907.18 kilograms] for the January;-February;-and-March-1978-quarterly July 1 through December 31, 1980, half-year period would be sixty-nine eighty-seven cents.

History: Amended effective September 1, 1979.

General Authority
NDCC 57-61-08

Law Implemented
NDCC 57-61-01



TITLE 84

TREASURER, STATE

84-02-01-03. BONDING. No wholesale license shall be issued until the applicant files a bond approved by the state treasurer, which shall not expire prior to the end of the calendar year. The bond for liquor wholesalers shall be ~~twenty-five~~ fifty thousand dollars. The bond for beer wholesalers shall be ~~two thousand-five-hundred~~ twenty-five thousand dollars. The state treasurer may, upon petition of the wholesaler prior to October first of each year, reduce the bond amount based on the wholesaler's history of compliance with all rules, regulations, and laws regarding the wholesaler's business and the wholesaler's volume of business. In no case shall the bond be less than five hundred dollars for any alcohol beverage wholesaler. Any wholesaler failing to comply with any rules and, regulations or laws regarding the wholesaler's business may be required to increase the wholesaler's bond to not more than double the amount of the wholesaler's highest monthly tax remission within the preceding year, after thirty days notice from the state treasurer. The bond may be reduced to the standard amount after one year of operation without further violation of any statutes or rules.

History: Amended effective September 1, 1979.

General Authority
NDCC 5-03-05

Law Implemented
NDCC 5-03-05,
5-03-06

