

STATE OF NORTH DAKOTA

Journal of the Senate
Special Session

of the

Thirty - ninth Session

of the

Legislative Assembly

Begun and held at the Capitol at Bismarck,
June 14 to June 21, 1965, Inclusive

CHARLES TIGHE
Bismarck, N. Dak.
President of the Senate

GERALD L. STAIR
Newburg, N. Dak.
Secretary of the Senate



BISMARCK TRIBUNE

12642

MEMBERS OF THE SENATE, 1965

DIST.	NAME	ADDRESS	BUSINESS OR OCCUPATION	MARITAL STATUS	MEMBER DURING SESSION OF
1	Grant Trenbeath	Neché	Farmer	Married	1957-59-61-63-65
2	Walter Dahlund	Kenmare	Farmer	Married	1963-65
3	Ludger Kadlec	Pisec	Farmer	Married	1965
4	Elton W. Ringsak	Grafton	Attorney	Married	1959-61-63-65
5	Duane Mutch	Larimore	Oil Jobber, Tire Distributor	Married	1959-61-63-65
6	George Saumur	Grand Forks	Farmer	Married	1957-59-61-63-65
7	George Longmire	Grand Forks	Lawyer	Married	1957-59-61-63-65
8	Oscar J. Sorlie	Buxton	Farmer	Married	1963-65
9	Herschel Lashkowitz	Fargo	Attorney	Single	1965
10	George Sinner	Casselton	Farmer	Married	1963-65
11	Francis E. Weber	Wheatland	Farmer	Married	1965
12	A. W. Luick	Fairmount	Farmer	Married	1951-53-55-57-59-61-63-65
13	Leonard A. Bopp	Cogswell	Farmer	Married	1961-63-65
14	Donald C. Holand	Lisbon	Lawyer	Married	1955-57-59-61-63-65
15	Earl M. Kelly	Valley City	Businessman	Married	1965
16	Carrol Torgerson	Cooperstown	Merchant	Married	1963-65
17	Lester J. Larson	Brocket	Farmer	Married	1965
18	Richard E. Forkner	Langdon	Publisher	Married	1963-65
19	Philip Berube	Belcourt	Farmer	Married	1953-55-57-59-61-63-65
20	Bronald Thompson	Oberon	Elevator Manager	Married	1959-61-63-65
21	J. H. Mahoney	Devils Lake	Physician	Married	1693-65
22	H. B. Baeverstad	Cando	Farm Manager	Married	1951-53-55-57-59-61-63-65
23	Kenneth Urdahl	Jamestown	Motel Operator	Married	1965
24	Emil T. Nelson	Edgeley	Farmer	Married	1955-57-63-65

MEMBERS OF THE SENATE, 1965 — (Continued)

DIST.	NAME	ADDRESS	BUSINESS OR OCCUPATION	MARITAL STATUS	MEMBER DURING SESSION OF
25	Earl H. Redlin	Ellendale	Businessman, Farmer	Married	1965
26	Robert Chesrown	Linton	Attorney	Married	1963-65
27	Evan Lips	Bismarck	Insurance	Married	1961-63-65
28	Edwin C. Becker, Jr.	Willow City	Farmer	Single	1959-61-63-65
29	Richard Jurgensen	Minot	Pastor	Married	1965
30	Emil E. Kautzmann	Mandan	Banker	Single	1959-61-63-65
31	Wm. R. Reichert	Dickinson	Attorney	Married	1961-63-65
32	H. O. Beck	Carrington	Merchant	Married	1963-65
33	Robert Walz	Fessenden	Real Estate, Insurance Manager	Married	1965
34	Bencer N. Kjos	Drake	Car Dealer	Single	1963-65
35	Harry W. George	Steele	Banker, Rancher	Married	1957-59-61-63-65
36	Gail Hernett	Ashley	Banker	Married	1955-57-59-61-63-65
37	Kenneth Morgan	Walcott	Farmer	Married	1957-59-61-63-65
38	Theron L. Strinden	Litchville	Hardware, Auto, Implement	Married	1963-65
39	Leland Roen	Bowman	Farmer	Married	1957-59-61-63-65
40	George Rait	Noonan	Farmer	Married	1965
41	Halvor Rolfsrud	Watford City	Farmer	Married	1963-65
42	Eugene Tuff	Barton	Farmer	Married	1955-57-59-61-63-65
43	Orville Witteman	Mohall	Farmer	Married	1961-63-65
44	Clark Van Horn	Parshall	Farmer	Married	1959-61-63-65
45	Iver Solberg	Ray	Farmer	Married	1941-43-49-51-53-55-57-59-61-63-65
46	Dave Robinson	Coleharbor	Farmer	Married	1963-65
47	Frank Rummele	Carson	Abstractor of Title	Married	1965
48	Dan Kisse	Halliday	Farmer	Married	1965
49	J. W. Ecker	Hettinger	Businessman	Married	1965

OFFICERS AND EMPLOYEES
of the
SENATE OF NORTH DAKOTA
of the Special Session of the
THIRTY-NINTH LEGISLATIVE ASSEMBLY

Gerald L. Stair.....	Newburg.....	Secretary of Senate
Dagney Olson.....	Devils Lake.....	Desk Reporter
Monty Burke.....	McKenzie.....	Assistant Secretary of Senate and Sergeant at Arms
Cora Essington.....	Bismarck.....	Chief Stenographer and Copy Clerk
Carrie Murdoch.....	Bismarck	Proofreader

SENATE MEMBERS

DISTRICT	Name	Address
1. Pembina.....	Grant Trenbeath.....	Neche
2. Pt. Ward.....	Walter Dahlund.....	Kenmare
3. Pt. Walsh.....	Ludger Kadlec.....	Pisek
4. Pt. Walsh.....	Elton W. Ringsak.....	Grafton
5. Pt. Grand Forks.....	Duane Mutch.....	Larimore
6. Pt. Grand Forks.....	George Saumur.....	Grand Forks
7. Pt. Grand Forks.....	George Longmire.....	Grand Forks
8. Traill.....	Oscar J. Sorlie.....	Buxton
9. Pt. Cass.....	Herschel Lashkowitz.....	Fargo
10. Pt. Cass.....	George A. Sinner.....	Casselton
11. Pt. Cass.....	Francis E. Weber.....	Wheatland
12. Pt. Richland.....	A. W. Luick.....	Fairmount
13. Sargent.....	Leonard A. Bopp.....	Cogswell
14. Ransom.....	Donald C. Holand.....	Lisbon
15. Pt. Barnes.....	Earl M. Kelly.....	Valley City
16. Griggs-Steele.....	Carrol Torgerson.....	Cooperstown
17. Nelson.....	Lester Larson.....	Brocket
18. Cavalier.....	Richard E. Forkner.....	Langdon
19. Rolette.....	Philip Berube.....	Belcourt
20. Benson.....	Bronald Thompson.....	Oberon
21. Ramsey.....	J. H. Mahoney.....	Devils Lake
22. Towner.....	H. B. Baeverstad.....	Cando
23. Stutsman.....	Kenneth Urdahl, Sr.....	Jamestown
24. LaMoure.....	Emil T. Nelson.....	Edgeley
25. Dickey.....	Earl H. Redlin.....	Ellendale
26. Emmons.....	Robert Chesrown.....	Linton
27. Burleigh.....	Evan E. Lips.....	Bismarck
28. Bottineau.....	Edwin C. Becker, Jr.....	Willow City
29. Pt. Ward.....	L. Richard Jurgensen.....	Minot
30. Morton.....	Emil E. Kautzmann.....	Mandan
31. Stark.....	Wm. R. Reichert.....	Dickinson
32. Eddy-Foster.....	H. O. Beck.....	Carrington
33. Wells.....	Robert Walz.....	Fessenden
34. McHenry.....	Bencer N. Kjos.....	Drake
35. Kidder-Sheridan.....	Harry W. George.....	Steele
36. McIntosh-Logan.....	Gail H. Hernet.....	Ashley
37. Pt. Richland.....	Kenneth L. Morgan.....	Walcott
38. Pt. Barnes.....	Theron L. Strinden.....	Litchville
39. Billings-Bowman Golden Valley-Slope.....	Leland H. Roen.....	Bowman
40. Burke-Divide.....	George Rait.....	Noonan
41. McKenzie.....	Halvor Rolfsrud.....	Watford City
42. Pierce.....	Eugene Tuff.....	Barton
43. Renville.....	Orville P. Witteman.....	Mohall
44. Mountrail.....	Clark Van Horn.....	Parshall
45. Williams.....	Iver Solberg.....	Ray
46. McLean.....	Dave M. Robinson.....	Coleharbor
47. Grant-Sioux.....	Frank J. Ruemmele.....	Carson
48. Mercer-Dunn-Oliver.....	Dan Kisse.....	Halliday
49. Adams-Hettinger.....	J. W. (Jim) Ecker.....	Hettinger

HOUSE MEMBERS

DISTRICT	NAME	ADDRESS
1. Pembina.....	Albert J. Christopher.....	Pembina
	Fred Olafson.....	Gardar
2. Pt. Ward.....	L. D. (Lee) Christensen.....	Kenmare
3. Pt. Walsh.....	Lloyd Staven.....	Park River
	Henry O. Lundene.....	Adams
4. Pt. Walsh.....	Wilfred Collette.....	Grafton
	Ed Gudajtes.....	Minto
5. Pt. Grand Forks.....	Arthur G. Bilden.....	Northwood
6. Pt. Grand Forks.....	Ole K. Kvasager.....	Manvel
	Marlin T. Obie.....	Grand Forks
	Patrick E. Ruddy.....	Grand Forks
7. Pt. Grand Forks.....	Richard Larsen.....	Grand Forks
	Kenneth Tweten.....	Reynolds
	George Unruh.....	Grand Forks
8. Traill.....	Eldred N. Dornacker.....	Mayville
	Gilman Westvedt.....	Hatton
9. Pt. Cass.....	Gordon S. Aamoth.....	Fargo
	Russell Duncan.....	Fargo
	Peter S. Hilleboe.....	Fargo
	Mrs. Frances V. Froeschle.....	Fargo
	Jacque Stockman.....	Fargo
	John S. Whittlesey.....	Fargo
10. Pt. Cass.....	Harry Bergman.....	Argusville
	David J. Montplaisir.....	West Fargo
	J. Milton Myhre.....	Kindred
11. Pt. Cass.....	Anna Powers.....	Leonard
12. Pt. Richland.....	Eldon Larson.....	Wahpeton
	Edward Shorma.....	Wahpeton
13. Sargent.....	Ole Breum.....	Rutland
14. Ransom.....	Lawrence Dick.....	Englevale
15. Pt. Barnes.....	Ernest N. Johnson.....	Dazey
	Leslie C. Powers.....	Valley City
16. Griggs-Steele.....	Gillman C. Olson.....	Cooperstown
	Kenneth Gronhovd.....	Hatton
17. Nelson.....	Helmer Dahlen.....	Michigan
18. Cavalier.....	Albert Bowles.....	Milton
	Frank Shablow.....	Langdon
19. Rolette.....	Oscar Solberg.....	Mylo
	Gerhart Wilkie.....	Rolla
20. Benson.....	S. F. Hoffner.....	Esmond
	Archie Borstad.....	Fort Totten
21. Ramsey.....	Thelmer Ivesdal.....	Edmore
	Paul E. Stenhjem.....	Devils Lake
22. Towner.....	Howard Vogel.....	Cando
23. Stutsman.....	Henry Ganser.....	Cleveland
	Robert F. Reimers.....	Melville
	Reuel E. Harrison.....	Edmunds
	James R. Jungroth.....	Jamestown
24. LaMoure.....	Milo Knudsen.....	Edgeley
	Vernon Krenz.....	Litchville
25. Dickey.....	L. C. Mueller.....	Oakes
26. Emmons.....	Howard F. Bier.....	Hazleton
	E. A. Tough.....	Linton

MEMBERS OF THE HOUSE (Continued)

27.	Burleigh.....	Carl H. Boustead.....	Bismarck
		R. Fay Brown.....	Bismarck
		John Coles.....	Bismarck
		Theodore A. Lang.....	Sterling
		Vernon E. Wagner.....	Bismarck
28.	Bottineau.....	Chester Fossum.....	Maxbass
		Lawrence Rosendahl.....	Westhope
29.	Pt. Ward.....	Brynhild Haugland.....	Minot
		Larry Erickson.....	Minot
		Herbert L. Meschke.....	Minot
		Wayne G. Sanstead.....	Minot
		Robert L. Schoenwald.....	Minot
		Gary M. Williamson.....	Minot
30.	Morton.....	Donald L. Hertz.....	Mandan
		Carl A. Meyer.....	Flasher
		Wm. N. (Bill) Gietzen.....	Glen Ullin
31.	Stark.....	Richard Elkin.....	Taylor
		Mike Olienyk.....	Belfield
		John F. Gengler.....	Dickinson
32.	Eddy-Foster.....	Dale Linderman.....	Carrington
		Russell L. Belquist.....	New Rockford
33.	Wells.....	Bryce Streibel.....	Fessenden
		L. C. Loerch.....	Harvey
34.	McHenry.....	Emil Anderson.....	Upham
		John Bruner.....	Drake
35.	Kidder-Sheridan.....	Gottlieb Frank.....	Kief
		A. W. Wentz.....	McClusky
36.	McIntosh-Logan.....	Emil E. Schaffer.....	Gackle
		Joe Welder.....	Napoleon
37.	Pt. Richland.....	Treadwell Haugen.....	Wyndmere
		Thomas R. Stallman.....	Barney
38.	Pt. Barnes.....	Ralph M. Winge.....	Litchville
39.	Billings-Bowman- Golden Valley-Slope.....	Lawrence Bowman.....	Bowman
		Karnes Johnson.....	Sentinel Butte
		A. R. Miller.....	Beach
		Earl C. Rundle.....	New England
40.	Burke-Divide.....	Sam Bloom.....	Alkabo
		M. E. (Sam) Glaspey.....	Lignite
41.	McKenzie.....	Arthur A. Link.....	Alexander
42.	Pierce.....	Vincent B. Rieger.....	Esmond
43.	Renville.....	Richard J. Backes.....	Glenburn
44.	Mountrail.....	William Erickson.....	Stanley
		Harold G. Skaar.....	New Town
45.	Williams.....	Olaf Opedahl.....	Tioga
		Clarence Poling.....	Williston
		Palmer Rustan.....	Williston
		Walter O. Burk.....	Williston
46.	McLean.....	Donald Giffey.....	Roseglen
		Otto Hauf.....	Max
47.	Grant-Sioux.....	Albert L. Rivinius.....	Elgin
		Herbert C. Leer.....	New Leipzig
48.	Mercer-Dunn-Oliver.....	James L. Connolly.....	Golden Valley
		Leonard J. Davis.....	Killdeer
		Ralph Hickle.....	Center
49.	Adams-Hettinger.....	Theo Hardmeyer.....	Mott
		Theo Strand.....	Regent

"Buy North Dakota Products"

Journal of the Senate



Special Session of the Thirty-ninth Legislative Assembly

FIRST DAY

Bismarck, June 14, 1965

At the hour of 10:00 a.m., being the day and hour appointed by the Governor for the convening of the Special Session of the Thirty-ninth Legislative Assembly, pursuant to the following proclamation issued by the Governor, June 5, 1965, which was read by Gerald L. Stair, Secretary of the Thirty-ninth Legislative Assembly.

DEPARTMENT OF STATE

Bismarck

June 14, 1965

The Secretary of the Senate
Thirty-ninth Legislative Assembly
Bismarck, North Dakota

Dear Sir:

Attached hereto please find a copy of Governor's proclamation calling a special session of the legislature for ten o'clock a.m., June 14, 1965.

Respectfully yours
BEN MEIER
Secretary of State

PROCLAMATION

WHEREAS, Section 75 of the Constitution of the State of North Dakota provides that the Governor shall have the power to convene the Legislative Assembly on extraordinary occasions; and,

WHEREAS, in my judgment an extraordinary occasion does exist, necessitating the calling of a Special Session of the Legislative Assembly due to the exercise of the power of referendum which, on July 1, 1965, will suspend the operation of the major tax measure passed by the Thirty-ninth Legislative Assembly; and,

WHEREAS, the suspension of this major tax law will cause serious loss of revenue, and will place in jeopardy the operation of State and local government; and,

WHEREAS, the suspension of this major tax law will cause distortion of private purchasing, and will cast legal doubt of tax application over business transactions, possibly precipitating court actions which would delay administration of a tax program;

NOW, THEREFORE, I, William L. Guy, Governor of the State of North Dakota, because of the extraordinary occasion that exists, and by virtue of the power and authority vested in me by the Constitution and laws of the State of North Dakota, do hereby call the Thirty-ninth Legislative Assembly of this State into Special Session to convene in the Legislative Chambers at the State Capitol, Bismarck, North Dakota, on June 14, 1965, at ten o'clock a.m., to consider and enact such laws as may be necessary and advisable in

order to safeguard the fiscal operations of the State of North Dakota and its political subdivisions.

IN WITNESS WHEREOF, I hereunto set my hand and cause the Great Seal of the State of North Dakota hereunto affixed this 5th day of June, 1965.

(SEAL)

WILLIAM L. GUY
Governor

ATTEST:

BEN MEIER
Secretary of State

Prayer by Charles M. Hill, United Church of Christ, Bismarck.

Roll call: All Senators present except Senator Roen.

A quorum was declared by the President.

MOTION

Senator Holand moved that the following persons be appointed as employees for this extra-ordinary special session:

Gerald L. Stair, Newburg.....	Secretary of the Senate
Dagny Olson, Devils Lake.....	Desk Reporter
Monty Burke, McKenzie.....	Sargeant-at-Arms, Bill Clerk, Messenger and Doorkeeper
Cora Essington, Bismarck.....	Chief Stenographer and Payroll Clerk
Mrs. Marshall Murdoch, Bismarck.....	Proof Reader

ROLL CALL

The question being on the appointment of the above employees, the roll was called and there were: ayes, 48; nays, 0; absent and not voting, 1.

Those voting in the affirmative were:

Baeverstad	Jurgensen	Morgan	Solberg
Beck	Kadlec	Mutch	Sorlie
Becker	Kautzmann	Nelson	Strinden
Berube	Kelly	Rait	Thompson
Bopp	Kisse	Redlin	Torgerson
Chesrown	Kjos	Reichert	Trenbeath
Dahlund	Larson	Ringsak	Tuff
Ecker	Lashkowitz	Robinson	Urdahl
Forkner	Lips	Rolfstrud	Van Horn
George	Longmire	Ruemmele	Walz
Hernett	Luick	Saumur	Weber
Holand	Mahoney	Sinner	Witteman

Absent and not voting:

Roen

So the said employees were declared appointed.

The Lt. Governor then administered the oath of office to said employees.

MOTION FOR SENATE RULES

Senator Holand moved that the Senate of the Thirty-ninth Legislative Assembly adopt as its Rules and Procedures for the Extra-ordinary Session commencing June 14, 1965, the Rules and Procedures of the Regular Session of the Thirty-ninth Legislative Assembly except that Senate Rules 30, 41, 42, 43, 44, and Joint Rules 8 and 11 be deleted, and the Rules hereinafter enumerated be amended and adopted in the following form:

SECTION 1.) Senate Rules 27, 29, 31, 35, 39, 46, 53, and 61, are hereby amended and adopted in the following form:

27. SUSPENSION OF RULES

No standing rule or order of the Senate shall be reconsidered or suspended except by a vote of two-thirds of the members-elect, and no motion to suspend the rules and pass a bill shall be entertained except by unanimous consent, unless the bill has first been printed or mimeographed and considered by a committee, nor shall any standing rule or order requiring unanimous consent be reconsidered or suspended without unanimous consent.

29. WHEN INTRODUCED

No bill shall be introduced after the ((twentieth)) first day; nor shall any resolution be introduced after the ((thirty-fifth)) first day, except upon the approval of a majority of ((the Committee on Delayed Bills or upon two-thirds vote of)) the members-elect of the Senate. Bills and resolutions shall be introduced in typewritten or mimeographed form.

31. FORM OF BILLS, NUMBER OF COPIES

Every bill, memorial or resolution shall be in typewritten or mimeographed form and nine copies thereof shall be filed with the Secretary of the Senate. Each such bill, memorial or resolution shall have endorsed thereon its title and the name of the member, or committee introducing the same. The enacting clause shall be as follows: "Be it enacted by the Legislative Assembly of the State of North Dakota." No bill shall embrace more than one subject, which shall be expressed in its title. If the bill amends a present statute, the portion thereof constituting the amendment or amendments shall be underscored. In all bills, which contain both sections amending existing statutes and sections which are new law, the portion containing the amendment to the existing statute and all of the section containing new law shall be underscored. Any matter contained in the present statute but deleted in the proposed amended statute shall be contained in the typewritten or mimeographed bill but shall be set off from the remainder of the text by three parentheses at the beginning and end of such deleted matter. Where Legislative Research Committee sponsored bills do not use the above device of parentheses and underscoring, such bills must be accompanied by appropriate explanatory notations outlining the changes to be effected. The bills and resolutions to be introduced in the Senate shall be in such form and style as the Legislative Research Committee shall prescribe. One of such copies shall be delivered to the Chairman of the Committee to which the measure is referred, one copy to the President of the Senate, one copy shall be delivered to the Legislative Research Committee for the purpose of checking for style and form and one shall remain in the custody of the Secretary until otherwise directed by the Senate, ((one shall be delivered to the printer having the contract for the printing of bills,)) one shall be delivered to the printer having the contract for printing the Senate Journal for use in setting of the bill title and ((three)) four copies shall be available for representatives of news media.

35. PRINTING OR MIMEOGRAPHING OF BILLS

All bills, resolutions or memorials requiring the approval of the Governor or a change in the Constitution of the State of North Dakota, ((after the first reading,)) shall be printed or mimeographed unless otherwise ordered by the Senate.

39. STANDING COMMITTEES

The Senate shall ((elect a Committee on Committees to consist of eight members of which the President of the Senate shall be the Chairman, and which committee shall)) appoint the following standing committees classified in accordance with the usual amount of work and concerned with matters in the field as indicated:

1. **AGRICULTURE**, ten members.
Agriculture; Livestock; Drainage and Irrigation; Warehouse and Grain Grading.
2. **APPROPRIATIONS**, fifteen members.
All bills calling for appropriations in excess of two hundred dollars.
3. **EDUCATION**, ten members.
Public schools, Libraries and Institutions of Higher Learning.
4. **FINANCE AND TAXATION**, twelve members.
Public Debt; Taxes and Tax Laws.
5. **JUDICIARY**, eleven members.
Elections and Election Privileges; Judiciary.
6. **STATE & FEDERAL GOVERNMENT**, ten members.
State and Federal Affairs; Board of Administration and Industrial Commission and institutions under their supervision; State Historical Society and State Parks; Immigration and Statistics.
7. **INDUSTRY, BUSINESS & LABOR**, ten members.
Banks and Banking; Corporations; Insurance; Matters pertaining to private business and Industry.
Workmen's Compensation; Unemployment Compensation; Labor Laws and kindred subjects.
8. **NATURAL RESOURCES**, thirteen members.
Game and Fish; Public Lands; Mines and Mining; Gas and Oil; Forestry.
9. **POLITICAL SUBDIVISIONS**, ten members.
Cities and Villages; Counties; Townships; Park Districts; Apportionment.
10. **SOCIAL WELFARE AND VETERANS AFFAIRS**, eleven members.
Public Welfare; Public Health; Public Safety; Temperance.
Matters affecting the Military and Veterans.
11. **TRANSPORTATION**, twelve members.
Highways and Bridges; Railroads; Motor Vehicles, Airlines and Airports.

(PROCEDURAL COMMITTEES)

12. **DELAYED BILLS**, to consist of five members.
13. **EMPLOYMENT**, to consist of six members.
14. **ENROLLED AND ENGROSSED BILLS**, to consist of five members.
15. **MILEAGE**, to consist of three members.
16. **REVISION AND CORRECTION OF JOURNAL**, to consist of three members.
17. **RULES**, to consist of nine members.
18. **LEGISLATIVE RESEARCH RESOLUTIONS COMMITTEE**, to consist of five members, one of whom may be a member of the Legislative Research Committee.

In all cases a majority of the Committee shall consist of a quorum. The Committee Chairman or such person who is duly appointed to act as Chairman shall insure that minutes of each Committee meeting be kept. Such minutes shall include the names of all Committee members present; the bills or resolutions discussed by number, and a short phrase explaining what such bill or resolution relates

to; the names of all persons and their addresses who appear in relation to any certain bill or resolution. The minutes shall also include a record of recommended amendment to bills and resolutions, and the total aye and nay vote of the Committee on all bills and resolutions referred out of the Committee. Upon adjournment of the Legislative Session the minutes of all Committee meetings shall be delivered to the Legislative Research Committee and retained by such Committee for a period of thirty days following such adjournment.

46. REPORT OF COMMITTEES

The report of a committee shall be for passage, for indefinite postponement, for amendment or without recommendation. If for amendment the proposed amendments shall be fully set forth in the report. If such report is adopted, the bill shall thereupon go on the calendar (((for the next legislative day))) for action of the Senate as to amendments under the Sixth Order of Business. ((No action shall be taken upon amendments until a full mimeographed or printed copy of the report is in the hands of the members. Upon receiving the report, the Secretary shall cause copies thereof to be made and placed on the desk of each member. Provided, however, that upon a two-thirds vote of the members-elect, this may be suspended, and the amendment acted on immediately after the report of the committee.)))

If a report or motion recommending a bill for passage (((without amendment))) is adopted, the bill shall go on the calendar for the next legislative day for second reading and final passage.

If a report or motion for indefinite postponement is adopted, it shall have the effect of entirely removing the bill or resolution from before the Senate for that session (unless revived by motion to reconsider). The passage of a motion for the adoption of a report recommending amendments has the effect of adopting the report but not the amendments.

53. SECOND READING

No bill, resolution or memorial requiring the approval of the Governor or a change in the Constitution of the State of North Dakota shall be referred or amended until it shall have been read; nor shall any such bill, resolution or memorial have its second reading and be put upon its final passage until at least one day after (((the same has been reported to the Senate by the Committee to which the same has been referred, provided that any such bill, resolution or memorial may have its second reading and be put upon its final passage on the day the same is reported back, when so ordered by two-thirds of the members-elect of the Senate))) its first reading.

61. NOTICE OF INTENTION TO RECONSIDER

Except on the (((forty-third))) second and (((sixtieth))) subsequent days of the special session, when notice of intention to move the reconsideration of any bill or joint resolution shall be given by a member, the Secretary of the Senate shall retain the said bill or joint resolution until the end of the next legislative day, excluding Sundays, unless the same has previously been disposed of. When a member, in explaining his vote, states to the Senate that his vote is for the purpose of reconsideration, such statement shall be deemed to be notice of such intention.

SECTION 2.) The last paragraph of Joint Rule 14 is hereby amended as follows:

All fiscal notes shall be prepared in triplicate and shall be returned to the Legislative Research Committee or the Committee Chairman making such request, whichever the case may be, not later than (((five days))) one day from the date of receipt of such

request. One copy of the fiscal note shall be attached to the original bill or resolution, one copy shall be filed with the bill clerk of the house wherein the bill or resolution originated, and one copy shall be filed in the offices of the Legislative Research Committee. Any bill or resolution requiring a fiscal note shall be stamped or have written on its cover a notation to the effect that a fiscal note is required. Reports of committees shall include a notation that a specific bill or resolution carries a fiscal note. Upon second reading and final passage of all bills or resolutions carrying fiscal notes the Secretary of the Senate or the Clerk of the House, whichever the case may be shall be required to read the fiscal note in its entirety at the time of reading the title of the bill or resolution to be voted upon.

Senator Lashkowitz: I would like to have the record reflect this — in as much as the Boards of Equalization set up by the Legislative Assembly, past and present, permit the citizenry to complain, with or without justification concerning past tax enactment, it is my humble judgment, Mr. President, that it will do us all good, without exception, to decide to attend these Boards of Equalization to hear what is revealed with regard to the property taxes borne by the citizenry, and I have reference to the general property taxes, both real and personal. Too often the Boards of Equalization in their assignment will take this as a mere formality. During the past week I have seen a great citizenry, and a greater citizenry in the past four years, come before the Board of Equalization and set forth their complaints regarding the nature of the property taxes. I respectfully submit that it would do us well, on no matter what level of government, to get the business of this session out of the way as promptly as possible and get back home and listen to the people.

The question being on the motion of Senator Holand, which motion prevailed.

MOTIONS

Senator Holand moved that all of the members of the Committees of the Thirty-ninth Legislative Assembly be re-appointed to the same Committees for this Extraordinary Session, which motion prevailed.

Senator Holand moved that a committee of three be appointed to notify the Governor that the Senate is organized and ready to transact business, which motion prevailed.

The President appointed as such committee Senators Longmire, Morgan and Reichert.

Senator Holand moved that a committee of three be appointed to notify the House that the Senate is organized and ready to transact business, which motion prevailed.

The President appointed as such committee Senators Strinden, Beck and Van Horn.

Senator Holand moved that the Senate be at ease, subject to the call of the Chair, which motion prevailed.

The Senate reconvened at the call of the Chair, the President presiding.

Senator Longmire announced that the committee appointed to notify the Governor that the Senate was organized and ready to transact business, had completed its mission and requested that the committee be discharged, which request was granted.

Senator Strinden announced that the committee appointed to inform the House that the Senate was organized and ready to transact business, had completed its mission and requested that the committee be discharged, which request was granted.

OATH OF OFFICE TO PRESIDENT PRO TEM

Senator Longmire moved that a committee of three be appointed to escort Senator Holand, President Pro Tem for the Interim, to the rostrum for the purpose of having the oath administered.

The President appointed as such committee Senators Longmire, Becker and Reichert.

Senator Longmire moved that a committee of two be appointed to escort Chief Justice Burke to the rostrum for the purpose of administering the oath to the President Pro Tem for the Interim.

The Chief Justice and Senator Holand were then escorted to the rostrum and the oath of office was administered to Senator Holand as President Pro Tem for the Interim.

MOTION ON RULES

Senator Holand moved that the rules of this Extraordinary Session be amended as follows:

That bills that may be introduced be not reproduced until such reproduction has been requested by the chairman of the committee considering the same or by the Senate.

Which motion prevailed.

MESSAGE FROM THE HOUSE

A committee was received from the House, which committee announced that the House was organized and ready to transact business.

Senator Holand moved that the Senate be at ease, subject to the Call of the Chair, which motion prevailed.

The Senate reconvened at the Call of the Chair, the President presiding.

FIRST READING OF SENATE BILLS

Senator Lashkowitz introduced:

Senate Bill No. 1. A Bill for an Act to provide for deferred payment of real and personal property taxes for persons vacating their business or living quarters because of an urban renewal project.

Was read the first time and referred to the Committee on State and Federal Government.

Senator Lashkowitz introduced:

Senate Bill No. 2. A Bill for an Act to amend and reenact subsection 4 of section 40-50-06 of the North Dakota Century Code, relating to the preparation and approval of urban renewal plans for municipalities and eliminating certain requirements with regard to permitted uses on redevelopment and declaring an emergency.

Was read the first time and referred to the Committee on State and Federal Government.

Senator Reichert introduced:

Senate Bill No. 3. A Bill for an Act to amend and reenact sections 28-32-15, 28-32-16, 28-32-17, 28-32-19, and 28-32-21 of the North Dakota Century Code to provide that appeals taken from a decision of an administrative agency shall be tried de novo in the district court, and to repeal section 28-32-18 of the North Dakota Century Code, relating to additional evidence to be taken by an administrative agency pending an appeal to the district court.

Was read the first time and referred to the Committee on State and Federal Government.

Senator Ringsak introduced:

Senate Bill No. 4. A Bill for an Act to provide for the imposition of a three percent sales tax, use tax, and motor vehicle excise and use tax, exemptions thereto, manner of collection and administra-

tion, appeals, penalties, refunds, allocation of revenues, effect on existing laws, and providing effective dates.

Was read the first time and referred to the Committee on Finance and Taxation.

Senators Longmire and Sinner introduced:

Senate Bill No. 5. A Bill for an Act making an appropriation for the purpose of paying expenses of the institutional collections program for the state hospital.

Was read the first time and referred to the Committee on Appropriations.

Senator Sinner introduced:

Senate Bill No. 6. A Bill for an Act to amend and reenact section 36-15-08 of the North Dakota Century Code relating to compensation and indemnity payments for herds of animals infected with tuberculosis.

Was read the first time and referred to the Committee on State and Federal Government.

Senator Reichert introduced:

Senate Bill No. 7. A Bill for an Act to create and enact subsection 4 of section 49-18-02 of the North Dakota Century Code, relating to an exemption from the provisions of chapter 49-18 of transportation of livestock between licensed livestock markets.

Was read the first time and referred to the Committee on State and Federal Government.

Senator Becker introduced:

Senate Bill No. 8. A Bill for an Act to provide for the imposition of a temporary sales tax, exemptions thereto, manner of collection and administration, appeals, penalties, refunds, allocation of revenues, effect on existing laws, and providing effective dates.

Was read the first time and referred to the Committee on Finance and Taxation.

Senators Hernet and Lips introduced:

Senate Bill No. 9. A Bill for an Act to amend and reenact section 26-24-22 of the North Dakota Century Code, relating to reinsurance of the state fire and tornado fund, as amended by Senate Bill 340 of the Thirty-Ninth Legislative Assembly of North Dakota also known as Chapter 214 of the 1965 Session Laws of the State of North Dakota, and declaring an emergency.

Was read the first time and referred to the Committee on State and Federal Government.

FIRST READING OF SENATE CONCURRENT RESOLUTIONS

Senators Ringsak, Mutch, Torgerson, Beck and Nelson introduced:

Senate Concurrent Resolution "A" A concurrent resolution applying to the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States, relating to apportionment.

Was read the first time and referred to the Committee on State and Federal Government.

Senator Holand moved that the Senate do now recess until 9:00 a.m., June 15, 1965, which motion prevailed.

GERALD L. STAIR, Secretary

FIRST DAY AFTER RECESS AND SECOND DAY

Bismarck, June 15, 1965

The Senate convened at 9:00 a.m., pursuant to recess taken, the President presiding.

FIRST READING OF A SENATE BILL AND
SENATE CONCURRENT RESOLUTIONS

Senator Luick introduced:

Senate Bill No. 10. A Bill for an Act providing an appropriation and authorizing the payment of expenses of the Extraordinary Session of the Thirty-ninth Legislative Assembly commencing June 14, 1965, and declaring an emergency.

Was read the first time and referred to the Committee on Appropriations.

Senator Ringsak introduced:

Senate Concurrent Resolution "B". A concurrent resolution commending the citizens of North Dakota, and especially those residing in the Grafton, North Dakota area, for their efforts toward establishing an all-faiths chapel at the Grafton State School.

Was read the first time and referred to the Committee on State and Federal Government.

Senator Mutch introduced:

Senate Concurrent Resolution "C". A concurrent resolution requesting the Congress of the United States to propose to the people an amendment to the Constitution expressly prohibiting the government of the United States from engaging in enterprise in competition with its citizens, the supreme law of the land, and repealing the 16th amendment.

Was read the first time and referred to the Committee on State and Federal Government.

Senator Holand requested that the Senate be at ease subject to the call of the chair, which request was granted.

The Senate reconvened at the call of the chair, the President presiding.

REPORT OF A STANDING COMMITTEE

Mr. President: Your Committee on State and Federal Government to whom was referred Senate Bill No. 1 has had the same under consideration and recommends that the same be indefinitely postponed.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted.

Senator Reichert made the substitute motion that Senate Bill No. 1 be placed on the calendar.

Senator Lashkowitz requested a roll call vote, which request was granted.

ROLL CALL

The question being on the motion of Senator Reichert, the roll was called and there were: ayes, 20; nays, 29; absent and not voting, 0.

Those voting in the affirmative were:

Berube	Larson	Rolfsrud	Urdahl
Bopp	Lashkowitz	Sinner	Van Horn
Ecker	Mahoney	Solberg	Walz
Jurgensen	Rait	Thompson	Weber
Kadlec	Reichert	Tuff	Witteman

Those voting in the negative were:

Baeverstad	Holand	Luick	Roen
Beck	Kautzmann	Morgan	Ruemmele
Becker	Kelly	Mutch	Saumur
Chesrown	Kisse	Nelson	Sorlie
Dahlund	Kjos	Redlin	Strinden
Forkner	Lips	Ringsak	Torgerson
George	Longmire	Robinson	Trenbeath
Hernett			

So the motion was declared lost.

The question being on the motion of Senator Ringsak that report of the committee be adopted, which motion prevailed.

REPORTS OF STANDING COMMITTEES

Mr. President: Your Committee on State and Federal Government to whom was referred Senate Bill No. 2 has had the same under consideration and recommends that the same do pass.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted.

Senator Mutch made the substitute motion that Senate Bill No. 2 be indefinitely postponed, which motion prevailed.

Mr. President: Your Committee on State and Federal Government to whom was referred Senate Bill No. 3 has had the same under consideration and recommends that the same do pass.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on Appropriations to whom was referred Senate Bill No. 5 has had the same under consideration and recommends that the same be amended as follows:

In the second line of the title after the word "hospital", insert the words: "and to amend and reenact subdivision 17 of subsection 3 of House Bill No. 501 of the Thirty-ninth Legislative Assembly, also known as subdivision 17 of section 3 of chapter 28 of the 1965 North Dakota Session Laws, relating to the appropriation for the board of administration, and declaring an emergency"

In line 3 delete the figure "\$30,400.00" and insert in lieu thereof the figure "\$21,180.00"

In line 8 delete the figure "\$25,320.00" and insert in lieu thereof the figure "\$18,250.00"

In line 9 delete the figure "\$3,600.00" and insert in lieu thereof the figure "\$1,800.00"

In line 11 delete the figure "\$1,050.00" and insert in lieu thereof the figure "\$700.00"

In line 12 delete the figure "\$30,400.00" and insert in lieu thereof the figure "\$21,180.00"

After line 12 insert the following sections:

"SECTION 2. AMENDMENT.) Subdivision 17 of section 3 of House Bill No. 501 of the Thirty-ninth Legislative Assembly, also

known as subdivision 17 of section 3 of chapter 28 of the 1965 North Dakota Session Laws is hereby amended and reenacted to read as follows:

BOARD OF ADMINISTRATION

Salaries and wages	\$(((575,000.00)))	<u>556,750.00</u>
(Salaries of board members not to exceed \$16,800 per member)		
Fees and Services	(((325,200.00)))	<u>323,400.00</u>
Supplies and materials	(((92,500.00)))	<u>92,070.00</u>
Supplies and materials for governor's mansion	6,000.00	
Equipment	(((38,195.00)))	<u>37,495.00</u>
Improvement governor's mansion — Intercom system, air conditioning and third furnace	12,000.00	
Land, structures — major improvements	150,000.00	
(Including caulking of capitol building)		
Special assessments — city of Bismarck	21,024.97	
Total	\$(((1,219,919.97)))	<u>1,198,739.97</u>

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

And renumber the lines accordingly.

And when so amended recommends the same do pass.

SENATOR LUICK, Chairman

Senator Lips moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on State and Federal Government to whom was referred Senate Bill No. 6 has had the same under consideration and recommends that the same be amended as follows:

In the title, after the word “tuberculosis” insert the following: “and declaring an emergency”

Add a new section as follows:

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

Number the lines accordingly.

And when so amended recommends the same do pass.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on State and Federal Government to whom was referred Senate Bill No. 7 has had the same under consideration and recommends that the same be indefinitely postponed.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on Finance and Taxation to whom was referred Senate Bill No. 8 has had the same under consideration and recommends that the same be amended as follows:

Delete lines 192 through 196 inclusive and insert in lieu thereof the following:

"6. Gross receipts from sales of tangible personal property or from furnishing or service of steam, gas, electricity, water, and communication service to the United States, state of North Dakota, or any of its subdivisions, departments or institutions, any county, city, village, township, school district, park district, or municipal corporation;"

Delete lines 210 through 249 inclusive

Delete lines 250 through 277 inclusive and insert in lieu thereof the following:

"SECTION 4. CREDIT FOR TAXES PAID ON WORTHLESS ACCOUNTS.) Taxes paid on gross receipts represented by accounts found to be worthless and actually charged off for income purposes may be credited upon subsequent payment of the tax herein provided; provided, that if such accounts are hereafter collected by the retailer, a tax shall be paid upon the amount so collected."

Delete lines 361 through 366 inclusive and insert in lieu thereof the following:

"2. The commissioner, if he deems it necessary or advisable in order to insure the payment of the tax imposed by this Act, may require returns and payment of the tax to be made for other than quarterly periods, the provisions of section 10 or elsewhere to the contrary notwithstanding; and"

Delete lines 383 through 414 inclusive and insert in lieu thereof the following:

"3. The commissioner, when in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under this Act, may require any person subject to such tax to file with him 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 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 commissioner in such amounts as he may prescribe, may be deposited with him, which securities shall be kept in the custody of the commissioner and may be sold by him at public or private sale, without notice to the depositor thereof, if it becomes necessary so to do in order to recover any tax and penalties due. All moneys received by the state tax commissioner under the provisions of this section shall be deposited in the general fund. The state tax commissioner shall issue a voucher for the unused money received by him to the persons entitled thereto and such funds are hereby appropriated from the general fund for such purposes."

Delete lines 462 through 465 inclusive and insert in lieu thereof the following:

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

Delete lines 489 through 550 inclusive and insert in lieu thereof the following:

"SECTION 12. PERMITS — APPLICATION AND FEE.) 1. No person shall engage in or transact business as a retailer within this state unless a permit or permits shall have been issued to him as hereinafter prescribed. Every person desiring to engage in or conduct business as a retailer within this state shall file with the commissioner an application for a permit or permits. Every application for such a permit shall be made upon a form prescribed by the commissioner and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the commissioner may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner thereof; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority;

2. At the time of making such application, the applicant shall pay to the commissioner a permit fee of fifty cents for each permit, and the applicant shall have a permit for each place of business;

3. Upon the payment of the permit fee, or fees herein required, the commissioner shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which 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 required by this section; for the purposes of this sentence the term "transient merchant" shall include any person, individual, co-partnership, or corporation, either as principal or agent, who solicits, engages in, does, or transacts any temporary or transient business in this state, either in one locality, or in traveling from place to place in this 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 case or sample case of any kind for the exhibition and sale of such goods, wares, and merchandise.

4. Permits issued under the provisions of this section shall be valid and effective without further payment of fees until revoked by the commissioner;

5. Whenever the holder of a permit fails to comply with any of the provisions of this Act or any rules or regulations prescribed by the commissioner and adopted under this Act, or whenever the holder of a permit shall file returns showing no tax due for four consecutive quarters, the commissioner upon hearing after giving ten days' notice of the time and place of the hearing to show cause why his permit should not be revoked, may revoke the permit. The commissioner also shall have the power to restore licenses after such revocation;

6. The commissioner shall charge a fee of one dollar for the issuance of a permit to a retailer whose permit has been previously revoked; and

7. All permits in effect at the time this Act takes effect are hereby continued and shall remain in full force and effect unless revoked as herein provided; provided that the commissioner may issue a new form of permit to replace, at no charge to the permit holders, all permits previously granted and issued that have not been revoked or surrendered."

Delete lines 551 through 568 inclusive and insert in lieu thereof the following:

"SECTION 13. FAILURE TO FILE RETURN — INCORRECT RETURN.) If a return required by this Act is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the same is required by notice from the commissioner, such commissioner shall determine the amount of tax due from such information as he may be able to obtain, and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by him, his stock on hand, and other factors. The commissioner shall give notice of such determination to the person liable for the tax. Such determination shall fix the tax finally and irrevocably unless the person against whom it is assessed, within thirty days after the giving of notice of such determination, shall apply to the commissioner for a hearing or unless the commissioner of his own motion shall reduce the same. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the commissioner shall give notice of his decision to the person liable for the tax."

Delete lines 569 through 574 inclusive and insert in lieu thereof the following:

"SECTION 14. APPEALS.) An appeal may be taken by the taxpayer to the district court of the county in which he resides, or in which his principal place of business is located, within sixty days after he shall have received notice from the commissioner of his determination as provided for in section 13 of this Act;"

Delete lines 620 through 633 inclusive and insert in lieu thereof the following:

"SECTION 16. PENALTIES, OFFENSES.) 1. Any person failing to file a return or corrected return or to pay any tax within the time required by this Act, shall be subject to a penalty of five percent of the amount of tax due, 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, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the commissioner and disposed of in the same manner as other receipts under this Act. Unpaid penalties may be enforced in the same manner as the tax imposed by this Act;"

Delete lines 678 through 684 and insert in lieu thereof the following:

"SECTION 18. TAX AND PENALTIES PAID TO COMMISSIONER — DISPOSITION.) All fees, taxes, interest, and penalties imposed and collected under this Act shall be paid to the commissioner in the form of a remittance payable to the treasurer of the state of North Dakota, and said commissioner shall transmit each payment monthly to the state treasurer to be deposited in the state treasury to the credit of the general fund."

Delete lines 702 through 711 inclusive and insert in lieu thereof the following:

"3. The fees and mileage to be paid witnesses and taxed as costs shall be the same as prescribed by law in proceedings in the district court of this state in civil cases. All costs shall be taxed in the manner provided by law in proceedings in civil cases. Where the costs are taxed to the taxpayer, they shall be added to the taxes assessed against said taxpayer and shall be collected in the same manner. Costs taxed to the state shall be certified by the commissioner to the state treasurer, who shall issue warrants for the

amount of said costs, to be paid out of the proceeds of the taxes collected under this Act;"

Delete lines 739 through 743 and insert in lieu thereof the following:

"3. The commissioner may require such of the officers, agents, and employees as he may designate to give bond for the faithful performance of the duties in such sum and such sureties as he may determine and the state shall pay, out of the proceeds of the taxes collected under the provisions of this Act, the premiums on such bonds;"

Delete lines 782 through 788 inclusive and insert in lieu thereof the following:

"SECTION 24. ALLOCATION OF REVENUE.) All moneys collected and received under this Act shall be paid into the state treasury and shall be credited by the state treasurer to the general fund."

And renumber the lines accordingly.

And when so amended recommends the same do pass.

SENATOR BECKER, Chairman

Sen. Chesrown moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on State and Federal Government to whom was referred Senate Bill No. 9 has had the same under consideration and recommends that the same do pass.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on State and Federal Government to whom was referred Senate Concurrent Resolution "A" has had the same under consideration and recommends that the same do pass.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on State and Federal Government to whom was referred Senate Concurrent Resolution "B" has had the same under consideration and recommends that the same do pass.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on State and Federal Government to whom was referred Senate Concurrent Resolution "C" has had the same under consideration and recommends that the same be indefinitely postponed.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on Appropriations to whom was referred Senate Bill No. 10 has had the same under consideration and recommends that the same do pass.

SENATOR LUICK, Chairman

Senator Lips moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on Finance and Taxation to whom was referred Senate Bill No. 4 has had the same under consideration and recommends that the same be indefinitely postponed.

SENATOR BECKER, Chairman

Senator Nelson moved that the report be adopted.

Senator Ringsak made the substitute motion that Senate Bill No. 4 be placed on the calendar, which motion was declared lost.

The question being on the motion of Senator Nelson that the committee report on Senate Bill No. 4 be adopted, which motion prevailed.

MOTIONS

Senator Holand moved that the rules be suspended and that the Senate go on the Sixth Order of Business for the consideration of amendments to Senate Bills No. 5, 6 and 8, which motion prevailed.

Senator Holand moved that the rules be suspended and that the reading of the amendments to Senate Bills No. 5, 6 and 8 be dispensed with, which motion prevailed.

CONSIDERATION OF AMENDMENTS

Senator Luick moved that the amendments to Senate Bill No. 5, as recommended by the Committee on Appropriations, be adopted, which motion prevailed.

Senator Ringsak moved that the amendments to Senate Bill No. 6, as recommended by the Committee on State and Federal Government, be adopted, which motion prevailed.

Senator Becker moved that the amendments to Senate Bill No. 8, as recommended by the Committee on Finance and Taxation, be adopted, which motion prevailed.

MOTION

Senator Holand moved that the absent Senator be excused, which motion prevailed.

Senator Holand moved that the Senate do now adjourn, which motion prevailed.

GERALD L. STAIR, Secretary

SECOND DAY

Bismarck, June 15, 1965

The Senate convened at 10:00 a.m., the President presiding. Prayer by Chaplain Henry Hottmann, McCabe Methodist, Bismarck.

Roll call: All Senators present.

A quorum was declared by the President.

Mr. President: Your Committee on Revision and Correction of the Journal has carefully examined the Journal of the first day and recommends that the same be corrected as follows:

On page 8, lines 31 and 32, delete the words "State and Federal Government" and insert the words "Finance and Taxation".

And when so corrected recommends that the same be approved.

SENATOR KISSE, Chairman

Senator Kisse moved that the report be adopted, which motion prevailed.

MESSAGES FROM THE HOUSE

House Chamber

Bismarck, June 15, 1965

Mr. President: I have the honor to transmit:

House Bill No. 501

Which the House has passed and your favorable consideration is requested.

DONNELL HAUGEN, Chief Clerk

House Chamber

Bismarck, June 15, 1965

Mr. President: I have the honor to transmit:

House Concurrent Resolution "B" which the House has passed and your favorable consideration is requested.

DONNELL HAUGEN, Chief Clerk

FIRST READING OF A HOUSE BILL AND A HOUSE
CONCURRENT RESOLUTION

House Bill No. 501. A Bill for an Act to provide for the imposition of a temporary sales tax, exemptions thereto, manner of collection and administration, appeals, penalties, refunds, allocation of revenues, effect on existing laws, and providing effective dates.

Was read the first time and referred to the Committee on Finance and Taxation.

House Concurrent Resolution "B". A concurrent resolution urging and requesting the Diamond Jubilee Committee to transfer all remaining unencumbered funds to the North Dakota Heritage Commission for deposit in the state treasury in the special heritage center fund.

Was read the first time and referred to the Committee on State and Federal Government.

MOTIONS

Senator Holand moved that the Secretary of the Senate make arrangements for the reproduction of Senate Bills Nos. 3, 5, 6, 8, 9, 10 and Senate Concurrent Resolutions "A" and "B", which motion prevailed.

Senator Holand moved that after the reading of Senate Bills Nos. 3, 5, 6, 8, 9, and 10 and Senate Concurrent Resolutions "A" and "B", that the Senate recess subject to the call of the chair, which motion prevailed.

The Senate reconvened pursuant to recess taken, the President presiding.

REPORT OF A STANDING COMMITTEE

Mr. President: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bills:

Senate Bill No. 5

Senate Bill No. 6

Senate Bill No. 8

And find the same correctly engrossed.

SENATOR BECK, Chairman

Senator Beck moved that the report be adopted, which motion prevailed.

SECOND READING OF SENATE BILLS

Senate Bill No. 3. A Bill for an Act to amend and reenact sections 28-32-15, 28-32-16, 28-32-17, 28-32-19, and 28-32-21 of the North Dakota Century Code to provide that appeals taken from a decision of an administrative agency shall be tried de novo in the district court, and to repeal section 28-32-18 of the North Dakota Century Code, relating to additional evidence to be taken by an administrative agency pending an appeal to the district court.

Which has been read.

ROLL CALL

The question being on the final passage of the bill, the roll was called and there were: ayes, 48; nays, 1; absent and not voting, 0.

Those voting in the affirmative were:

Beck	Kadlec	Mutch	Solberg
Becker	Kautzmann	Nelson	Sorlie
Berube	Kelly	Rait	Strinden
Bopp	Kisse	Redlin	Thompson
Chesrown	Kjos	Reichert	Torgerson
Dahlund	Larson	Ringsak	Trenbeath

Ecker	Lashkowitz	Robinson	Tuff
Forkner	Lips	Roen	Urdahl
George	Longmire	Rolfsrud	Van Horn
Hernett	Luick	Ruemmele	Walz
Holand	Mahoney	Saumur	Weber
Jurgensen	Morgan	Sinner	Witteman

Those voting in the negative were:
Baeverstad

So the bill passed and the title was agreed to.

Senate Bill No. 9. A Bill for an Act to amend and reenact section 26-24-22 of the North Dakota Century Code, relating to reinsurance of the state fire and tornado fund, as amended by Senate Bill 340 of the Thirty-Ninth Legislative Assembly of North Dakota also known as Chapter 214 of the 1965 Session Laws of the State of North Dakota, and declaring an emergency.

Which has been read.

ROLL CALL

The question being on the final passage of the bill, the roll was called and there were: ayes, 43; nays, 6; absent and not voting, 0.

Those voting in the affirmative were:

Beck	Jurgensen	Mutch	Sorlie
Becker	Kadlec	Nelson	Strinden
Berube	Kautzmann	Redlin	Thompson
Bopp	Kelly	Reichert	Torgerson
Chesrown	Kisse	Ringsak	Trenbeath
Dahlund	Kjos	Robinson	Tuff
Ecker	Lips	Roen	Urdahl
Forkner	Longmire	Ruemmele	Van Horn
George	Luick	Saumur	Walz
Hernett	Mahoney	Sinner	Witteman
Holand	Morgan	Solberg	

Those voting in the negative were:

Baeverstad	Lashkowitz	Rolfsrud	Weber
Larson	Rait		

So the bill passed and the title was agreed to and the emergency clause carried.

PERSONAL PRIVILEGE

Senator Lashkowitz: I rise on a point of personal privilege and I would like my remarks recorded in the Journal.

My purpose in making this brief statement is to recognize the long standing position and history of the Democrat party in support of the small business man.

I want to compliment my colleagues of the Democrat party for their support of Senate Bill No. 1 this morning. This was consistent with the history and position and plan of the Democrat party in helping the cause of the small business man down through the years. I believe it is necessary to make this brief statement because unfortunately sometimes one or two newspapers, probably only one, has tried to create the wrong impression concerning the history and roll of the Democrat party. I might state for the benefit of all my colleagues, Senate Bill No. 1 was truly a bill designed to help the distressed small business men who are being dislocated as the result of actions of the federal, state and local governments acting in concert. I have reference not only to landlords but those who are operating their businesses on lease. I want to make it manifestly clear whether this is my last appearance in this body or not, that this is a clear cut historical test as to whether or not we really do subscribe to the principle of helping the business man — the small business men who are in distress. I think the willingness on the part of my associates to allow these people to have two years delay in payment of their taxes is a willingness to give them encouragement to continue in business and also to stimulate investment capital. One of

the purposes of government is to cooperate with business, labor and citizenry generally and I believe from the bottom of my heart that it is imperative that government put its action where its — shall we say — its political speeches lie. This morning I can state for the record that I figuratively and literally fought my heart out on this bill and I shall not in this short session pursue this matter any further, and I want the record to show that was a clear cut opportunity to show what they feel for the encouragement of small businesses, encouragement of the private enterprise system and protection of investment capital.

SECOND READING OF A SENATE CONCURRENT RESOLUTION

Senate Concurrent Resolution "B". A concurrent resolution commending the citizens of North Dakota, and especially those residing in the Grafton, North Dakota area, for their efforts toward establishing an all-faiths chapel at the Grafton State School.

Which has been read.

Senator Ringsak moved that Senate Concurrent Resolution "B" be adopted, which motion prevailed.

SECOND READING OF SENATE BILLS

Senate Bill No. 10. A Bill for an Act providing an appropriation and authorizing the payment of expenses of the Extraordinary Session of the Thirty-ninth Legislative Assembly commencing June 14, 1965, and declaring an emergency.

Which has been read.

ROLL CALL

The question being on the final passage of the bill, the roll was called and there were ayes, 43; nays, 6; absent and not voting 0.

Those voting in the affirmative were:

Baeverstad	Holand	Mahoney	Solberg
Beck	Jurgensen	Morgan	Sorlie
Becker	Kadlec	Nelson	Strinden
Berube	Kautzmann	Rait	Thompson
Bopp	Kelly	Reichert	Trenbeath
Chesrown	Kisse	Ringsak	Tuff
Dahlund	Kjos	Roen	Urdahl
Ecker	Larson	Rolfsrud	Walz
Forkner	Lips	Ruemmele	Weber
George	Longmire	Saumur	Witterman
Hernett	Luick	Sinner	

Those voting in the negative were:

Lashkowitz	Redlin	Torgerson	Van Horn
Mutch	Robinson		

So the bill passed and the title was agreed to and the emergency clause carried.

Senate Bill No. 5. A Bill for an Act making an appropriation for the purpose of paying expenses of the institutional collections program for the state hospital.

Which has been read.

ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were: ayes, 46; nays, 3; absent and not voting, 0.

Those voting in the affirmative were:

Beck	Kadlec	Nelson	Sorlie
Becker	Kautzmann	Rait	Strinden
Berube	Kelly	Redlin	Thompson
Bopp	Kisse	Reichert	Torgerson
Chesrown	Kjos	Robinson	Trenbeath
Dahlund	Larson	Roen	Tuff
Ecker	Lashkowitz	Rolfsrud	Urdahl

Forkner	Lips	Ruemmele	Van Horn
George	Longmire	Saumur	Walz
Hernett	Luick	Sinner	Weber
Holand	Mahoney	Solberg	Witteinan
Jurgensen	Morgan		

Those voting in the negative were:

Baeverstad	Mutch	Ringsak
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So the bill passed and the title was agreed to and the emergency clause carried.

Senate Bill No. 6. A Bill for an Act to amend and reenact section 36-15-08 of the North Dakota Century Code relating to compensation and indemnity payments for herds of animals infected with tuberculosis.

Was read the second time.

ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were: ayes, 47; nays, 2; absent and not voting, 0.

Those voting in the affirmative were:

Beck	Kadlec	Mutch	Solberg
Becker	Kautzmann	Nelson	Sorlie
Berube	Kelly	Rait	Strinden
Bopp	Kisse	Redlin	Thompson
Chesrown	Kjos	Reichert	Torgerson
Dahlund	Larson	Ringsak	Trenbeath
Ecker	Lashkowitz	Robinson	Tuff
Forkner	Lips	Roen	Urdahl
George	Longmire	Rolfsrud	Van Horn
Hernett	Luick	Ruemmele	Walz
Holand	Morgan	Saumur	Weber
Jurgensen		Sinner	Witteinan

Those voting in the negative were:

Baeverstad	Mahoney
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So the bill passed and the title was agreed to and the emergency clause carried.

Senate Bill No. 8. A Bill for an Act to provide for the imposition of a temporary sales tax, exemptions thereto, manner of collection and administration, appeals, penalties, refunds, allocation of revenues, effect on existing laws, and providing effective dates.

Was read the second time.

Senator Van Horn moved that Senate Bill No. 8 be amended as follows:

In line 817 delete the words "first day of July, 1967" and insert in lieu thereof the words "thirty-first day of December, 1965".

Senator Becker requested a roll call vote, which request was granted.

ROLL CALL

The question being on the motion of Senator Van Horn, the roll was called and there were: ayes, 19; nays, 30; absent and not voting, 0.

Those voting in the affirmative were:

Berube	Lashkowitz	Sinner	Van Horn
Bopp	Mahoney	Solberg	Walz
Jurgensen	Rait	Thompson	Weber
Kadlec	Reichert	Tuff	Witteinan
Larson	Rolfsrud	Urdahl	

Those voting in the negative were:

Baeverstad	Hernett	Luick	Roen
Beck	Holand	Morgan	Ruemmele

Becker	Kautzmann	Mutch	Saumur
Chesrown	Kelly	Nelson	Sorlie
Dahlund	Kisse	Redlin	Strinden
Ecker	Kjos	Ringsak	Torgerson
Forkner	Lips	Robinson	Trenbeath
George	Longmire		

So the motion was declared lost.

ROLL CALL

The question being on the final passage of Senate Bill No. 8, as amended, the roll was called and there were: ayes, 34; nays, 15; absent and not voting, 0.

Those voting in the affirmative were:

Baeverstad	Hernett	Luick	Ruemmele
Beck	Holand	Morgan	Saumur
Becker	Kautzmann	Mutch	Sinner
Berube	Kelly	Nelson	Sorlie
Chesrown	Kisse	Redlin	Strinden
Dahlund	Kjos	Reichert	Thompson
Ecker	Lips	Robinson	Torgerson
Forkner	Longmire	Roen	Trenbeath
George			

Those voting in the negative were:

Bopp	Lashkowitz	Rolfsrud	Van Horn
Jurgensen	Mahoney	Solberg	Walz
Kadlec	Rait	Tuff	Weber
Larson	Ringsak	Urdahl	Witteman

So the bill passed and the title was agreed to.

Senator Ringsak: Mr. President, I wish to explain my vote. I voted "no" on this bill because of several reasons—the primary reason was that when we went from two per cent to two and a quarter percent it put a hardship on the businessman, and certainly on the housewife who is trying to figure out what she should pay. Today I introduced a bill of three percent on sales and use tax, which was postponed. I wonder why, Mr. President. Two years ago we had a good tax program which was referred to the people for several reasons — first, that we could not arrive at a definite point here at the legislature on how much money we had in the general fund — we heard we would have a four million dollar deficit from our friends across the aisle — from our friends on this side we heard we would have four million to the good. I talked to a friend of mine in the capitol building who had made a study of the finance and taxation situation and he said we would have eight million in the general fund on July 1, 1963, actually we had \$16,914,000. I am now advised that on May 30, 1965, the general fund has \$18,023,431, and that we will have over sixteen million on July 1, 1965.

Mr. President, something else bothers me about this changing of the date from December 31, 1965 to July 1, 1967, and that is this — if we are in here at this time at a special session because we are in fiscal straits — I can't see in my own simple mind and opinion if we lose three-quarter percent of sales tax from July 1st to December 31st, 1965, and if this money from two and a fourth percent is not sufficient to pay the bills we incurred and appropriated in the amount of one hundred twenty-five or twenty-six million, how are we going to pick up the lost revenue by another special session. Why isn't the special election held in July or August? Therefore, I feel that if we had gone to three percent right now — taken the bull by the horns so to speak — forgotten about party lines and gone down the line as legislators, we would at least have tried it. I realize, Mr. President, that if we had agreed to go to three percent

we might have jeopardized the tax program that was being referred, likewise we might have jeopardized the initiated measures.

Mr. President, in reading the Constitution, I doubt if the people of North Dakota will ever have a chance to vote on the initiated measures that have been approved by them before the next general election, as the Governor may not and is not required to call the election. This is simply my own personal opinion — I am not speaking for the party, but in studying the tax situation and the State Constitution, I feel that with 30,000 signatures submitted, the session would have been called, the election would have been had, and we would have then have known the taxpayers' wishes. As it stands now, the Governor implies there will be no election on the initiated measures, but rather we will be faced with another special session in the fall, contrary to the wishes of the people. It is my feeling, that the special session should have been presented with a program by the Governor that would have amply provided the revenue for the appropriations, not this catch as catch can two and a quarter sales tax with definite proof that it will suffice or not.

MOTION

Senator Holand moved that the votes by which Senate Bills Nos. 3, 5, 6, 8, 9 and 10 were passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

MESSAGE FROM THE HOUSE

House Chamber
Bismarck, June 15, 1965

Mr. President: I have the honor to transmit:

House Bill No. 503 - 504 - 505

House Bill No. 506 - 507

Which the House has passed and your favorable consideration is requested.

DONNELL HAUGEN, Chief Clerk

FIRST READING OF HOUSE BILLS

House Bill No. 503. A Bill for an Act to amend and reenact subsection 4 of Section 40-58-06 of the North Dakota Century Code, relating to the preparation and approval of urban renewal plans for municipalities and eliminating certain requirements with regard to permitted uses on redevelopment and declaring an emergency.

Was read the first time and referred to the Committee on State and Federal Government.

House Bill No. 504. A Bill for an Act to amend and reenact sections 2 and 16 of House Bill No. 903, also known as sections 2 and 16 of Chapter 217 of the 1965 North Dakota Session Laws, relating to the establishment and operation of family courts.

Was read the first time and referred to the Committee on State and Federal Government.

House Bill No. 505. A Bill for an Act to amend and reenact section 28-20-34 of the 1963 Supplement to the North Dakota Century Code, relating to interest rates on judgments.

Was read the first time and referred to the Committee on State and Federal Government.

House Bill No. 506. A Bill for an Act to authorize the North Dakota board of higher education to grant to Northwestern Bell Telephone Company an easement over certain tracts of land, and declaring an emergency.

Was read the first time and referred to the Committee on State and Federal Government.

House Bill No. 507. A Bill for an Act to provide medical assistance for needy persons.

Was read the first time and referred to the Committee on State and Federal Government.

MESSAGE TO THE HOUSE

Senate Chamber
Bismarck, June 15, 1965

Mr. Speaker: I have the honor to transmit:

Senate Bills No. 3 - 5 - 6 - 8

Senate Bills No. 9 - 10

Senate Concurrent Resolution "B"

Which the Senate has passed and your favorable consideration is requested.

GERALD L. STAIR, Secretary

Senator Holand moved that the Senate recess subject to the Call of the Chair, which motion prevailed.

The Senate reconvened at the Call of the Chair, the President presiding.

REPORTS OF STANDING COMMITTEES

Mr. President: Your Committee on Finance and Taxation to whom was referred House Bill No. 501 has had the same under consideration and recommends that the same be indefinitely postponed.

SENATOR BECK, Chairman

Senator Chesrown moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on State and Federal Government to whom was referred House Bill No. 503 has had the same under consideration and recommends that the same do pass.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on State and Federal Government to whom was referred House Bill No. 504 has had the same under consideration and recommends that the same be indefinitely postponed.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on State and Federal Government to whom was referred House Bill No. 505 has had the same under consideration and recommends that the same do pass.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on State and Federal Government to whom was referred House Bill No. 506 has had the same under consideration and recommends that the same do pass.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on State and Federal Government to whom was referred House Bill No. 507 has had the same under consideration and recommends that the same do pass.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted, which motion prevailed.

Mr. President: Your Committee on State and Federal Government to whom was referred House Concurrent Resolution "B" has had the same under consideration and recommends that the same be indefinitely postponed.

SENATOR RINGSAK, Chairman

Senator Ringsak moved that the report be adopted, which motion prevailed.

Senator Holand moved that the Senate recess until 9:30 a.m., June 16, 1965, which motion prevailed.

GERALD L. STAIR, Secretary

SECOND DAY AFTER RECESS AND THIRD DAY

Bismarck, June 16, 1965

The Senate convened at 9:30 a.m., pursuant to recess taken, the President presiding.

MESSAGE TO THE HOUSE

Senate Chamber

Bismarck, June 15, 1965

Mr. Speaker: I have the honor to return:

House Bills Nos. 501 - 504.

House Concurrent Resolution "B".

Which the Senate has indefinitely postponed.

GERALD L. STAIR, Secretary

Senator Holand moved that the Senate do now adjourn, which motion prevailed.

GERALD L. STAIR, Secretary

THIRD DAY

Bismarck, June 16, 1965

The Senate convened at 10:00 a.m., the President presiding.

Prayer by Chaplain Warren Johnson, First Lutheran, Bismarck.

Roll call: All Senators present.

A quorum was declared.

Mr. President: Your Committee on Revision and Correction of the Journal has carefully examined the Journal of the first day after recess and second day and recommends that the same be corrected as follows:

On page 9, line 40, delete the number "2" and insert in lieu thereof the number "1".

On page 18, line 15, delete the words "State of" and insert the words "of North Dakota, and declaring an Emergency." in lieu thereof.

And when so corrected recommends that the same be approved.

SENATOR KISSE, Chairman

Senator Kisse moved that the report be adopted, which motion prevailed.

MESSAGES FROM THE HOUSE

House Chamber

Bismarck, June 16, 1965

Mr. President: I have the honor to return:

Senate Concurrent Resolution "B".

Which the House has passed unchanged.

DONNEL HAUGEN, Chief Clerk

House Chamber
Bismarck, June 16, 1965

Mr. President: I have the honor to return:

Senate Bill No. 8.

Which the House has amended as follows:

AMENDMENTS TO SENATE BILL No. 8

For an Act to provide for the imposition of a temporary sales tax, exemptions thereto, manner of collection and administration, appeals, penalties, refunds, allocation of revenues, effect on existing laws, and providing effective dates.

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

SECTION 1. DEFINITIONS.) The following words, terms and phrases, when used in this Act, have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Person" includes any individual, firm, partnership, joint adventure, association, corporation, estate, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number;
2. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration, and includes the furnishing of services relating to personal property, the furnishing or service of steam, gas, electricity, water or communication, the furnishing of hotel, motel, or tourist court accommodations, the furnishing of tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin, and sales of subscriptions to magazines and other periodicals regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription; provided that the words "magazines and other periodicals" as used herein shall not include newspapers nor shall they include magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues;
3. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, electricity, water, and communication service to retail consumers or users; the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, services relating to personal property, tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding, manufacturing, producing or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the

- purpose of incorporating it in or attaching it to other real or personal property otherwise exempt from the sales tax shall be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated outside of North Dakota shall not be considered a taxable sale;
4. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect;
 5. "Retailer" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, electricity, water and communication services, or tickets or admissions to places of amusement, entertainment and athletic events including the playing of any machine for amusement or entertainment in response to the use of a coin, or services relating to personal property, or magazines, or other periodicals; and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in manner provided in this Act; and shall include the state or any municipality furnishing steam, gas, electricity, water, or communication service to members of the public in its proprietary capacity;
 6. "Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided, however, that on all sales of retailers, valued in money, when such sales are made under conditional sales contract, or under other forms of sale wherein the payment of the principal sum thereunder be extended over a period longer than sixty days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted for, for the purpose of imposition of tax imposed by this Act, as has actually been received in cash by the retailer during each quarterly period as defined herein. "Gross receipts" shall also mean, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only such tangible personal property the transfer of title to which has not been subjected to a retail gas tax in this state. "Gross receipts" shall also mean, with respect to subscriptions to magazines and other periodicals, the amount of consideration, valued in money, whether received in money or otherwise, received from the sale of such subscriptions regardless of whether

or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription;

7. "Relief agency" means the state, any county, city and county, city or district thereof, or an agency engaged in actual relief work;
8. "Commissioner" means the tax commissioner of the state of North Dakota; and
9. "Local governmental unit" means incorporated cities, towns and villages, counties, school districts and townships.

SECTION 2. TAX IMPOSED.) Except as otherwise expressly provided by this Act, there is hereby imposed a tax of two and one-quarter percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as hereinafter provided in this section, within the state of North Dakota of the following to consumers or users:

1. Tangible personal property, consisting of goods, wares, or merchandise;
2. The furnishing or service of steam, gas, electricity, water, or communication services;
3. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment or athletic activity, and including the playing of any machine for amusement or entertainment in response to the use of a coin;
4. Magazines and other periodicals, including subscriptions thereto;
5. The leasing or renting of hotel, motel, or tourist court accommodations for periods of less than thirty consecutive calendar days or one month;
6. Services furnished in repairing, altering, restoring, or cleaning any tangible personal property provided that this subsection shall not apply to retailers who furnish such services to agricultural producers with respect to agricultural products; and
7. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under the provisions of chapter 57-40 or chapter 57-40.1 of the North Dakota Century Code.

SECTION 3. EXEMPTIONS.) There are specifically exempted from the provisions of this Act and from computation of the amount of tax imposed by it:

1. Gross receipts from sales of tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state;
2. Gross receipts from the sales, furnishing or service of transportation service;
3. Gross receipts from sales of tangible personal property processed from agricultural products, when such property is sold in exchange for like agricultural products produced by the purchaser and is for the purchaser and his family;
4. Gross receipts from sales of tickets, or admissions to state, county, district and local fairs, and the gross receipts from educational, religious, or charitable activities, where the entire amount of such receipts is expended for educational, religious or charitable purposes;

5. Gross receipts from the sale by any school board of this state of books and school supplies to regularly enrolled students at costs;
6. Gross receipts from all sales otherwise taxable under this chapter made to the United States or any state thereof, including the state of North Dakota, or any of the subdivisions, departments, agencies or institutions thereof;
7. Gross receipts from the sale, by any drug store, of drugs sold under a doctor's prescription;
8. Gross receipts from sales of commercial fertilizers and from the sale of seeds, roots, bulbs and small plants to users or consumers for planting or transplanting for vegetable gardens or agricultural purposes;
9. Gross receipts from sales of oxygen sold to any person who purchases it upon the written order of a doctor for his own use for medical purposes; and
10. Gross receipts from the sale of gasoline, cigarettes, snuff, insurance premiums, or any other article or product upon which the state of North Dakota imposes a special tax.
11. Gross receipts from the sale of feed which is fed to poultry or livestock, including breeding stock and wool bearing stock, for the purpose of producing eggs, milk, meat, fibers or other products for human consumption and the gross receipts from the sale of feed purchased for the purpose of being fed to draft or fur bearing animals. The word "feed" as used herein shall be construed to mean and include only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone, molasses, beet pulp, meat and bone scraps, meal and other generally recognized animal feeds. The term "feed" does not include drugs, medicants, disinfectants, wormers, tonics and like items.
12. Gross receipts from all sales otherwise taxable under this Act when made to persons who are residents of adjoining states which do not impose or levy a retail sales tax; provided that such persons are in the state of North Dakota for the express purpose of making such purchases, and not as tourists; and provided further that any such person furnish to the North Dakota retailer a certificate signed by him in such form as the tax commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless such certificate is furnished it shall be presumed, until the contrary is shown, that such person was not in the state of North Dakota for the express purpose of making such purchases; provided further that this exemption shall not apply to any sale to any person if the sales price is ten dollars or less. The deduction for this exemption shall not exceed one and one-half of the amount of the deduction for exempt sales in interstate commerce which the retailer was legally entitled to deduct on his sales tax returns for the calendar year 1964. If no deduction was taken for interstate commerce sales on returns filed for the calendar year 1964 or if no returns were required to be filed for the calendar year 1964, the deduction for this exemption shall not exceed the average interstate commerce deduction legally allowed by retailers conducting similar business, as determined by the tax commissioner.

SECTION 4. CREDIT OR REFUND FOR TAXES PAID ON WORTHLESS ACCOUNTS AND REPOSSESSIONS.) 1. Taxes paid on gross receipts represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon subsequent payment of the tax herein provided; provided, that if such accounts are hereafter collected by the retailer, a tax shall be paid upon the amount so collected.

2. If a retailer has remitted the sales tax due on the full amount of an installment sales contract rather than on only the installment payments received as provided in subsection 6 of section 1 of this Act, he may deduct as a credit against his sales tax liability on the next return that he is required to file the amount of sales tax he paid on the installment contract payments which were not made by the purchaser of the merchandise sold under such contract; such credit may be deducted by the retailer regardless of whether or not said retailer has assigned the contract, provided, however, that if the retailer has assigned the contract he must have assigned it subject to an agreement to repurchase the contract in the event of default by the purchaser under the contract or subject to a guarantee that the payments under the contract would be made. In the event such deduction exceeds the amount of sales tax due the state by the retailer in the next regular return, such excess shall be allowed as credit against future sales tax due from the retailer. If in any case the credit, or any part of it, cannot be utilized by the retailer because of a discontinuance of a business or for other valid reasons, the amount thereof may be refunded to the retailer.

SECTION 5. CREDIT TO RELIEF AGENCY AND LOCAL GOVERNMENTAL UNITS.) A relief agency may apply to the commissioner for refund of the amount of tax imposed hereunder and paid upon sales to it of any goods, wares, or merchandise used for free distribution to the poor and needy. Such refunds may be obtained only in the following amount and in the manner and only under the following conditions:

1. On forms furnished by the commissioner, and during the time herein provided for the filing of quarterly tax returns by retailers, the relief agency shall report to the commissioner the total amount or amounts, valued in money, expended directly or indirectly for goods, wares or merchandise used for free distribution to the poor and needy;
2. On these forms the relief agency shall separately list the persons making the sales to it or to its order, together with the dates of the sales, and the total amount so expended by the relief agency; and
3. The relief agency must prove to the satisfaction of the commissioner that the person making the sales has included the amount thereof in the computation of the gross receipts of such person and that such person has paid the tax levied by this Act, based upon such computation of gross receipts.

If the commissioner is satisfied that the foregoing conditions and requirements have been complied with, he shall refund the amount claimed by the relief agency.

SECTION 6. TAX TO BE ADDED TO PURCHASE PRICE AND BE A DEBT.) Retailers shall add the tax imposed under this Act, or the average equivalent thereof, to the sales price or charge and when added such taxes shall constitute a part of such price or charge, shall be a debt from the consumer or user to the retailer until paid, and shall be recoverable at law in the same manner as other debts.

In adding such tax to the price or charge, retailers shall adopt the following bracket system for the application of the tax:

\$0.01 to \$0.19.....	no tax
.20 to .59.....	1¢ tax
.60 to .99.....	2¢ tax
1.00 to 1.49.....	3¢ tax
1.50 to 1.99.....	4¢ tax
2.00 to 2.49.....	5¢ tax
2.50 to 2.99.....	6¢ tax

3.00 to 3.49.....	7¢ tax
3.50 to 3.99.....	8¢ tax

An additional tax of 1c for each 50c, or fraction thereof, over \$3.99 except that for each full \$4.00 there shall be collected a tax of 9c.

SECTION 7. UNLAWFUL ACT.) No retailer shall advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this Act shall be assumed or absorbed by the retailer or that it will not be considered as an element in the price to the consumer or, if added, that it or any part thereof will be refunded.

SECTION 8. RECORDS REQUIRED.) Every retailer required to make a report and pay any tax under this Act, shall preserve such records of the gross proceeds of sale as the commissioner may require and every retailer shall preserve for a period of six years all invoices and other records of goods, wares, or merchandise purchased for resale. All such books, invoices, and other records shall be open to examination at any time by the commissioner or any of his duly authorized agents.

SECTION 9. RETURN OF GROSS RECEIPTS.) 1. On or before the last day of the month following the close of the first quarterly period as defined in the following section, and on or before the last day of the month following each subsequent quarterly period of three months, the retailer shall make out a return for the preceding quarterly period in such form and manner as may be prescribed by the commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further information as the commissioner may require to enable him correctly to compute and collect the tax herein levied. The commissioner upon request by any retailer and a proper showing of the necessity therefor, may grant unto such retailer an extension of time not to exceed thirty days for making such return. If such extension is granted to any such retailer, the time in which he is required to make payment as provided for in section 10 of this Act shall be extended for the same period;

2. The commissioner, if he deems it necessary or advisable in order to insure the payment of the tax imposed by this chapter, or if he deems it practical, may require returns and payment of the tax to be made for annual periods or other than quarterly periods, the provisions of this Act to the contrary notwithstanding; and

3. Returns shall be signed by the retailer or his duly authorized agent.

SECTION 10. PAYMENT OF TAX, BOND, CREATION OF LIEN.) 1. The tax levied under the provisions of this Act shall be due and payable in quarterly installments on or before the last day of the month next succeeding each calendar quarterly period, except that when there is a sale of any business by any retailer or when any business is discontinued by a retailer, the tax shall become due immediately prior to the sale or discontinuance of such business and if not paid within fifteen days thereafter it shall become delinquent and subject to the penalties provided in section 16 of this Act.

2. Every retailer, at the time of making the return required hereunder, shall compute and pay to the commissioner the tax due for the preceding period;

3. The commissioner, when in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under this Act, may require any person subject to such tax to file with him 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 commis-

sioner 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 commissioner in such amounts as he may prescribe, may be deposited with him, which securities shall be kept in the custody of the commissioner and may be sold by him at public or private sale, without notice to the depositor thereof, if it becomes necessary so to do in order to recover any tax and penalties due. All moneys deposited as security with the state tax commissioner under the provisions of this subsection shall be paid by the state tax commissioner to the state treasurer and shall be credited by the state treasurer into a special fund to be known as the "Retail Sales and Use Tax Security Trust Fund". If any tax, penalty or costs imposed by this Act are not paid when due, by the person depositing moneys with the state tax commissioner as security for the payment of tax, penalty or costs imposed by this Act, the state tax commissioner shall certify that information to the director of accounts and purchases who shall transmit the money to the tax commissioner who shall apply the money deposited by the person or so much thereof as is necessary to satisfy the tax and penalties due. The state tax commissioner, when in his judgment it is no longer necessary to require the deposit to be maintained by the person, shall certify that information to the director of accounts and purchases who shall pay the unused money to the person entitled thereto.

4. Remittances on account of tax due under this Act shall not be deemed or considered payment thereof unless or until the commissioner shall have collected or received the amount due for such tax in cash or equivalent credit.

SECTION 11. LIEN OF TAX — COLLECTION — ACTION AUTHORIZED.) 1. Whenever any taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the same, the amount, including any interest, penalty, or addition to such tax, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to said taxpayer, and in the case of property in which a deceased taxpayer held an interest as joint tenant or otherwise with right of survivorship at the time of his death, the lien shall continue as a lien against the property in the hands of the survivor or survivors to the extent of the deceased taxpayer's interest therein, which interest shall be determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein;

2. The lien aforesaid shall attach at the time the tax becomes due and payable and shall continue until the liability for such amount is satisfied; for the purposes of this provision the words "due" and "due and payable" shall mean the first instant at which the tax becomes due;

3. In order to preserve the aforesaid lien against subsequent mortgages, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the tax commissioner shall file with the register of deeds of the county in which said property is located, a notice of said lien;

4. The register of deeds of each county shall prepare and keep in his office a book known as "Index of Tax Liens", so ruled as to show in appropriate columns the following data, under the names of taxpayers, arranged alphabetically:

- a. The name of the taxpayer;
- b. The name "State of North Dakota" as claimant;
- c. Time notice of lien was received;
- d. Date of notice;

- e. Amount of lien then due; and
- f. When satisfied.

The register of deeds shall endorse on each notice of lien the day, hour and minute when received and preserve the same, and forthwith shall index said notice in said index book and forthwith shall record said lien in the manner provided for recording real estate mortgages, and the said lien shall be effective from the time of the indexing thereof;

5. The tax commissioner shall be exempt from the payment of the recording and filing fees as otherwise provided by law for the recording and filing of such lien, or for the satisfaction thereof;

6. Upon the payment of a tax as to which the tax commissioner has filed notice with the register of deeds, the tax commissioner forthwith shall file with said register of deeds a satisfaction of said tax and the register of deeds shall enter said satisfaction on the notice on file in his office and indicate said fact on the index aforesaid;

7. The attorney general, upon the request of the tax commissioner, shall bring an action at law or in equity, as the facts may justify, without bond to enforce payment of any taxes and any penalties, or to foreclose the lien therefor in the manner provided for mortgages on real or personal property, and in such action he shall have the assistance of the state's attorney of the county in which the action is pending.

8. It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the tax commissioner or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law;

9. The technical, legal requirements outlined in this section relating to tax liens on all real and personal property of the taxpayer to insure payment of the taxes, including penalties, interest and other costs, are self-explanatory.

SECTION 12. PERMITS—APPLICATION FEE FOR RE-ISSUANCE.) 1. No person shall engage in or transact business as a retailer within this state unless a permit or permits shall have been issued to him as hereinafter prescribed. Every person desiring to engage in or conduct business as a retailer within this state shall file with the commissioner an application for a permit or permits. Every application for such a permit shall be made upon a form prescribed by the commissioner and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the commissioner may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner thereof; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority;

2. Upon determining that each applicant for a sales tax permit is a bona fide retailer the commissioner shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which 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 required by this section; for the purposes of this sentence the term "transient merchant" shall include any person, individual, co-partnership,

or corporation, either as principal or agent, who solicits, engages in, does, or transacts any temporary or transient business in this state, either in one locality, or in traveling from place to place in this 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 case or sample case of any kind for the exhibition and sale of such goods, wares, and merchandise;

3. Permits issued under the provision of this section shall be valid and effective until revoked by the commissioner;

4. Whenever the holder of a permit fails to comply with any of the provisions of this chapter or any rules or regulations prescribed by the commissioner and adopted under this Act, or whenever the holder of a permit shall file returns showing no tax due for four consecutive quarters, the commissioner upon hearing after giving ten days' notice of the time and place of the hearing to show cause why his permit should not be revoked, may revoke the permit. The commissioner also shall have the power to restore licenses after such revocation;

5. The commissioner shall charge a fee of five dollars for the issuance of a permit to a retailer whose permit has been previously revoked; and

6. All permits in effect at the time this Act takes effect are hereby continued and shall remain in full force and effect unless revoked as herein provided; provided that the commissioner may issue a new form of permit to replace, at no charge to the permit holders, all permits previously granted and issued that have not been revoked or surrendered.

SECTION 13. FAILURE TO FILE RETURN—INCORRECT RETURN.) If a return required by this Act is not filed, or if a return when filed is incorrect or insufficient the commissioner shall determine the amount of tax due from such information as he may be able to obtain, and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by him, his stock on hand, and other factors. The commissioner shall give notice of such determination to the person liable for the tax. Such determination shall fix the tax finally and irrevocably unless the person against whom it is assessed, within fifteen days after the giving of notice of such determination, shall apply to the commissioner for a hearing or unless the commissioner of his own motion shall reduce the same. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the commissioner shall give notice of his decision to the person liable for the tax.

SECTION 14. APPEALS.) 1. An appeal may be taken by the taxpayer to the district court of the county in which he resides, or in which his principal place of business is located, within thirty days after he shall have received notice from the commissioner of his determination as provided for in section 13 of this Act;

2. The appeal shall be taken by a written notice to the commissioner and served as an original notice. When said notice is so served it shall be filed with the return thereon in the office of the clerk of said district court, and docketed as other cases, with the taxpayer as plaintiff and the commissioner as defendant. The plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by such clerk, in penalty at least double the amount of tax appealed from and in no case shall the bond be less than fifty dollars, conditioned that the plaintiff shall perform the orders of the court; and

3. The court shall hear the appeal in equity and determine anew all questions submitted to it on appeal from the determination of

the commissioner. The court shall render its decree thereon and a certified copy of said decree shall be filed by the clerk of said court with the commissioner who shall then correct the assessment in accordance with said decree. An appeal may be taken by the taxpayer or the commissioner to the supreme court of this state in the same manner that appeals are taken in suits in equity, irrespective of the amount involved.

SECTION 15. SERVICE OF NOTICE.) 1. Any notice, except notice of appeals, authorized or required under the provisions of this Act may be given by mailing the same to the person for whom it is intended by registered or certified mail addressed to such person at the address given in the last return filed by him pursuant to the provisions of this Act, or if no return has been filed, then such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this Act by giving of notice shall commence to run from the date of registration and posting of such notice;

2. If any tax imposed by this Act or by chapter 57-40 of the North Dakota Century Code remains unpaid, a proceeding in court for the collection of such tax may be begun at any time within six years after the due date of such tax; provided that no limitation of time to collect such tax shall apply if the failure to pay such tax was due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax. The limitations provided by this Act in regard to a commencement of court proceedings shall not apply to any assessment of tax made by the tax commissioner prior to July 1, 1963.

SECTION 16. PENALTIES, OFFENSES.) 1. Any person failing to file a return or corrected return or to pay any tax within the time required by this Act shall be subject to a penalty of five percent of the amount of tax due or of 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, if satisfied that the delay was excusable, may remit all or any part of the five dollar or five percent penalty, whichever was imposed. Such penalty shall be paid to the commissioner and disposed of in the same manner as other receipts under this Act. Unpaid penalties may be enforced in the same manner as the tax imposed by this Act;

2. Any person who shall sell tangible personal property, tickets or admissions to places of amusement, and athletic events, or steam, gas, water, electricity and communication service at retail in this state after his license shall have been revoked, or without procuring a license within sixty days after the effective date of this Act, as provided in section 12 of this Act, or who shall violate the provisions of section 7 of this Act, and the officers of any corporation who shall so act, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment, in the discretion of the court;

3. Any person required to make, render, sign or verify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the assessment required by law to be made, shall be guilty of a misdemeanor and, for each such offense, shall be fined not to exceed five hundred dollars or shall be imprisoned in the county jail not exceeding one year, or shall be subject to both a fine and imprisonment, in the discretion of the court;

4. The certificate of the commissioner to the effect that a tax has not been paid, that a return has not been filed, or that informa-

tion has not been supplied pursuant to the provisions of this Act shall be prima facie evidence thereof;

5. Any person failing to comply with any of the provisions of this Act, or failing to remit within the time herein provided to the state the tax due on any sale or purchase of tangible personal property subject to said sales tax, shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months or by a fine of not exceeding five hundred dollars, or by both such fine and imprisonment, in the discretion of the court. This criminal liability shall be cumulative and in addition to the civil liability for penalties hereinbefore provided.

SECTION 17. TAX COMMISSIONER TO ADMINISTER ACT.) The tax commissioner is hereby charged with the administration of this Act and the taxes imposed thereby. Such commissioner may prescribe all rules and regulations not inconsistent with the provisions of this Act, necessary and advisable for its detailed administration and to effectuate the purposes, including the right to provide for the issuance and sale by the state of coupons covering the amount of tax or taxes to be paid under this Act, if such method is deemed advisable by said commissioner.

SECTION 18. TAX, PENALTIES AND OTHER CHARGES PAID TO COMMISSIONER — DISPOSITION.) All fees, taxes, penalties and other charges imposed and collected under this Act shall be paid to the commissioner in the form of a remittance payable to the commissioner who shall transmit each payment monthly to the state treasury to be deposited in the state treasury to the credit of the general fund.

SECTION 19. GENERAL POWERS.) 1. The commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income and receipts of any taxpayer, shall have power to examine or cause to be examined by any agent or representative designated by him, books, papers, records, or memoranda; to require by subpoena the attendance and testimony of witnesses; to issue and sign subpoenas; to administer oaths; to examine witnesses and receive evidence; to compel witnesses to produce for examination books, papers, records, and documents relating to any matter which he shall have the authority to investigate or determine;

2. Where the commissioner finds the taxpayer has made a fraudulent return, the costs of said hearing shall be taxed to the taxpayer. In all other cases the cost shall be paid by the state;

3. The fees and mileage to be paid witnesses and taxed as costs shall be the same as prescribed by law in proceedings in the district court of this state in civil cases. All costs shall be taxed in the manner provided by law in proceedings in civil cases. Where the costs are taxed to the taxpayer, they shall be added to the taxes assessed against said taxpayer and shall be collected in the same manner. Costs taxed to the state shall be certified by the commissioner to the state treasurer, who shall issue warrants for the amount of said costs;

4. In cases of disobedience to a subpoena the commissioner may invoke the aid of any court of competent jurisdiction in requiring the attendance and testimony of witnesses and production of records, books, papers, and documents, and such court may issue an order requiring the person to appear before the commissioner and give evidence or produce records, books, papers, and documents, as the case may be, and any failure to obey such order of court may be punished by the court as contempt thereof;

5. Testimony on hearings before the commissioner may be taken by a deposition as in civil cases, and any person may be

compelled to appear and depose in the same manner as witnesses may be compelled to appear and testify as hereinbefore provided.

SECTION 20. COMMISSIONER MAY APPOINT AGENTS AND EMPLOYEES — COMPENSATION — BOND.) 1. The commissioner may appoint such agents, auditors, clerks and employees as he may deem necessary, fix their salaries and compensation and prescribe their duties and powers, and may remove such persons so appointed by him. Each auditor appointed by the commissioner shall have had at least three years' experience, or the educational equivalent thereof, in the auditing and checking of books of account;

2. All such agents and employees shall be allowed such reasonable and other necessary traveling expenses as may be incurred in the performance of their duties not to exceed, however, such amounts as are now or may hereafter be fixed by law;

3. The commissioner may require such of the officers, agents, and employees as he may designate to give bond for the faithful performance of the duties in such sum and such sureties as he may determine and the state shall pay the premiums on such bonds;

4. The commissioner may utilize the office of the treasurer of the various counties in order to administer this Act and effectuate its purposes and may appoint the treasurers of the various counties his agents to collect any or all of the taxes imposed by this Act. No additional compensation shall be paid to said treasurer by reason thereof.

SECTION 21. INFORMATION DEEMED CONFIDENTIAL — PENALTY.) It shall be unlawful for the commissioner, or any person having an administrative duty under this Act, to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any person or corporation visited or examined in the discharge of official duty, or the amount or sources of income, profits, losses, expenditures or any particulars thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract of particulars thereof to be seen or examined by any person except as provided by law. The commissioner may authorize examination of such returns by other state officers, or, if a reciprocal arrangement exists, by tax officers of another state, or the federal government. Any person violating the provisions of this section shall be guilty of a misdemeanor and punishable by a fine of not to exceed one thousand dollars.

SECTION 22. CORRECTION OF ERRORS.) If it shall appear that, as a result of a mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of this Act, then such amount shall be credited against any tax due, or to become due, under this Act from the person who made the erroneous payment, or such amount shall be refunded to such person by the commissioner.

SECTION 23. PAYMENT OF REFUND.) Wherever by any provisions of this Act a refund is authorized, the commissioner shall certify the amount of the refund, the reason therefor and the name of the payee to the department of accounts and purchases, who shall thereupon draw a warrant on the general fund in the amount specified payable to the named payee.

SECTION 24. ALLOCATION OF REVENUE.) All moneys collected and received under this Act shall be paid into the state treasury and shall be credited by the state treasurer to the general fund. Moneys deposited with the tax commissioner as security for the payment of tax, penalties or costs due shall be deposited and accounted for as provided in subsection 3 of section 10.

SECTION 25. EFFECT ON EXISTING LAWS.) The provisions of this Act shall be construed as superseding the provisions of chapter 57-39 of the North Dakota Century Code during such time as specified in section 26 of this Act. Any reference in the North Dakota Century Code to chapter 57-39 or any part of such chapter, shall be construed as a reference to this Act, or the applicable section of this Act, during such time as this Act remains in effect.

SECTION 26. EFFECTIVE DATE.) The provisions of this Act shall remain in effect until the following events occur;

1. In the event House Bill No. 698 of the Thirty-Ninth Regular Session, also known as chapter 386 of the 1965 Session Laws, shall be referred and approved by the electorate at any election held prior to December 31, 1965, then, and in that event, upon the date House Bill No. 698 shall become effective, the tax imposed by this Act shall cease, and this Act shall become inoperative except as to tax liabilities incurred prior to the date of its expiration; or
2. In the event a sales tax Act of two and one-quarter percent or more upon the gross receipts of retailers is submitted to and adopted by the electorate at any election held prior to December 31, 1965, then, and in such event, upon the date such an initiated sales tax Act shall become effective, the tax imposed by this Act shall become inoperative except as to tax liabilities incurred prior to the date of its expiration.
3. In any event the provisions of this Act shall not remain in effect beyond the thirty-first day of December, 1965.

DONNELL HAUGEN, Chief Clerk

MESSAGE FROM THE HOUSE

House Chamber
Bismarck, June 16, 1965

Mr. President: I have the honor to return:

Senate Bill No. 3

Which the House has indefinitely postponed.

DONNELL HAUGEN, Chief Clerk

MOTION

Senator Lashkowitz moved that he be granted majority consent to introduce Senate Resolution No. 1, a resolution urging that the United States Junior Chamber of Commerce hold the Outstanding Young Farmer Contest in North Dakota, which motion prevailed.

FIRST READING OF A SENATE RESOLUTION

Senator Lashkowitz introduced:

Senate Resolution No. 1. A resolution urging that the United States Junior Chamber of Commerce National Outstanding Young Farmer Contest and Banquet be held in North Dakota.

MOTION

Senator Holand moved that the rules be suspended and that Senate Resolution No. 1 be not printed, not reproduced, and placed on second reading and final passage, which motion prevailed.

SECOND READING OF A SENATE CONCURRENT RESOLUTION

Senate Concurrent Resolution "A" A concurrent resolution applying to the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States, relating to apportionment.

Which has been read.

Senator Ringsak moved that Senate Concurrent Resolution "A" be adopted, which motion prevailed.

SECOND READING OF HOUSE BILLS

House Bill No. 503. A Bill for an Act to amend and reenact subsection 4 of Section 40-58-06 of the North Dakota Century Code, relating to the preparation and approval of urban renewal plans for municipalities and eliminating certain requirements with regard to permitted uses on redevelopment and declaring an emergency.

Was read the second time.

ROLL CALL

The question being on the final passage of the bill, the roll was called and there were: ayes, 43; nays, 6; absent and not voting, 0.

Those voting in the affirmative were:

Beck	Kadlec	Morgan	Sorlie
Becker	Kautzmann	Rait	Thompson
Berube	Kelly	Redlin	Torgerson
Bopp	Kisse	Reichert	Trenbeath
Dahlund	Kjos	Ringsak	Tuff
Ecker	Larson	Roen	Urdahl
Forkner	Lashkowitz	Rolfstrud	Van Horn
George	Lips	Ruemmele	Walz
Hernett	Longmire	Saumur	Weber
Holand	Luick	Sinner	Witteman
Jurgensen	Mahoney	Solberg	

Those voting in the negative were:

Baeverstad	Mutch	Robinson	Strinden
Chesrown	Nelson		

So the bill passed and the title was agreed to and the emergency clause carried.

House Bill No. 505. A Bill for an Act to amend and reenact section 28-20-34 of the 1963 Supplement to the North Dakota Century Code, relating to interest rates on judgments.

Was read the second time.

ROLL CALL

The question being on the final passage of the bill, the roll was called and there were: ayes, 48; nays, 1; absent and not voting, 0.

Those voting in the affirmative were:

Beck	Kadlec	Mutch	Solberg
Becker	Kautzmann	Nelson	Sorlie
Berube	Kelly	Rait	Strinden
Bopp	Kisse	Redlin	Thompson
Chesrown	Kjos	Reichert	Torgerson
Dahlund	Larson	Ringsak	Trenbeath
Ecker	Lashkowitz	Robinson	Tuff
Forkner	Lips	Roen	Urdahl
George	Longmire	Rolfstrud	Van Horn
Hernett	Luick	Ruemmele	Walz
Holand	Mahoney	Saumur	Weber
Jurgensen	Morgan	Sinner	Witteman

Those voting in the negative were:

Baeverstad

So the bill passed and the title was agreed to.

House Bill No. 506. A Bill for an Act to authorize the North Dakota board of higher education to grant to Northwestern Bell Telephone Company an easement over certain tracts of land, and declaring an emergency.

Was read the second time.

ROLL CALL

The question being on the final passage of the bill, the roll was called and there were: ayes, 48; nays, 1; absent and not voting, 0.

Those voting in the affirmative were:

Beck	Kadlec	Mutch	Solberg
Becker	Kautzmann	Nelson	Sorlie
Berube	Kelly	Rait	Strinden
Bopp	Kisse	Redlin	Thompson
Chesrown	Kjos	Reichert	Torgerson
Dahlund	Larson	Ringsak	Trenbeath
Ecker	Lashkowitz	Robinson	Tuff
Forkner	Lips	Roen	Urdahl
George	Longmire	Rolfsrud	Van Horn
Hernett	Luick	Ruemmele	Walz
Holand	Mahoney	Saumur	Weber
Jurgensen	Morgan	Sinner	Witteman

Those voting in the negative were:

Baeverstad

So the bill passed and the title was agreed to and the emergency clause carried.

House Bill No. 507. A Bill for an Act to provide medical assistance for needy persons.

Was read the second time.

ROLL CALL

The question being on the final passage of the bill, the roll was called and there were: ayes, 26; nays, 22; absent and not voting, 1.

Those voting in the affirmative were:

Berube	Kadlec	Rait	Solberg
Bopp	Larson	Reichert	Thompson
Dahlund	Lashkowitz	Rolfsrud	Tuff
Ecker	Lips	Ruemmele	Urdahl
Hernett	Longmire	Saumur	Van Horn
Holand	Mahoney	Sinner	Witteman
Jurgensen	Morgan		

Those voting in the negative were:

Baeverstad	Kautzmann	Nelson	Sorlie
Beck	Kelly	Redlin	Strinden
Becker	Kisse	Ringsak	Torgerson
Chesrown	Kjos	Robinson	Walz
Forkner	Luick	Roen	Weber
George	Mutch		

Absent and not voting:

Trenbeath

So the bill passed and the title was agreed to.

SECOND READING OF A SENATE RESOLUTION

Senate Resolution No. 1. A resolution urging that the United States Junior Chamber of Commerce National Outstanding Young Farmer Contest and Banquet be held in North Dakota.

Was read the second time.

Senator Lashkowitz moved that Senate Resolution No. 1 be adopted, which motion prevailed.

CONSIDERATION OF MESSAGE FROM THE HOUSE

Senator Holand moved that the Senate do not concur in the House amendments to Senate Bill No. 8 and that a Conference Committee be appointed, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as a Conference Committee on Senate Bill No. 8, Senators:

Holand
Becker
Van Horn

MESSAGE TO THE HOUSE

Senate Chamber
Bismarck, June 16, 1965

Mr. Speaker: I have the honor to inform you that the Senate has refused to concur in the House amendments to Senate Bill No. 8 and the President has appointed as a Conference Committee to act with a like committee from the House, Senators:

Becker
Holand
Van Horn

GERALD L. STAIR, Secretary

MOTION

Senator Holand moved that the Senate recess subject to the Call of the Chair, which motion prevailed.

The Senate reconvened pursuant to recess taken, the President presiding.

MESSAGES TO THE HOUSE

Senate Chamber
Bismarck, June 16, 1965

Mr. Speaker: I have the honor to transmit:
Senate Concurrent Resolution "A"
Which the Senate has passed and your favorable consideration is requested.

GERALD L. STAIR, Secretary
Senate Chamber
Bismarck, June 16, 1965

Mr. Speaker: I have the honor to return:
House Bills Nos. 503 - 505 - 506 - 507.
Which the Senate has passed unchanged.

GERALD L. STAIR, Secretary

MESSAGES FROM THE HOUSE

House Chamber
Bismarck, June 16, 1965

Mr. President: I have the honor to return:
Senate Bills Nos. 5 - 6 - 9.
Which the House has passed unchanged.

DONNEL HAUGEN, Chief Clerk
House Chamber
Bismarck, June 16, 1965

Mr. President: I have the honor to inform you that the Speaker has appointed as a conference committee to act with a like committee from the Senate, Representatives:

Shablow
Christensen
Dornacker

On Senate Bill No. 8.

DONNEL HAUGEN, Chief Clerk

REPORT OF A SELECT COMMITTEE

Mr. President: Your Conference Committee to whom was referred Senate Bill No. 8 has had the same under consideration and recommends: That the Conference Committee be discharged and a new Conference Committee be appointed.

For the Senate:
Senator Holand
Senator Becker
Senator Van Horn

For the House:
Rep. Shablow
Rep. Dornacker
Rep. Christensen

Senator Van Horn moved that the report be adopted, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as a new Conference Committee on Senate Bill No. 8, Senators:

Holand
Becker
Van Horn

MESSAGE TO THE HOUSE

Senate Chamber
Bismarck, June 16, 1965

Mr. Speaker: I have the honor to inform you that the Senate has adopted the Conference Committee report on Senate Bill No. 8 and the committees having been unable to agree, the President appointed as a new Conference Committee, Senators:

Holand
Becker
Van Horn

GERALD L. STAIR, Secretary

MOTION

Senator Holand moved that the House be requested to return House Bill No. 501, which motion prevailed.

MESSAGE TO THE HOUSE

Senate Chamber
Bismarck, June 16, 1965

Mr. Speaker. I have the honor to inform you that the Senate requests the return of House Bill No. 501.

GERALD L. STAIR, Secretary

REPORT OF A STANDING COMMITTEE

Mr. President: Your Committee on Mileage and Per Diem recommends that the same mileage be paid the members of the Senate for attending this Extraordinary Session as was paid to them for attending the regular Thirty-Ninth Legislative Assembly.

SENATOR MUTCH, Chairman

Senator Mutch moved that the report be adopted.

ROLL CALL

The question being on the motion of Senator Mutch the roll was called and there were: ayes, 36; nays, 5; absent and not voting, 8.

Those voting in the affirmative were:

Baeverstad	Hernett	Lashkowitz	Ruemmele
Beck	Holand	Lips	Solberg
Becker	Jurgensen	Longmire	Sorlie
Bopp	Kadlec	Luick	Strinden
Chesrown	Kautzmann	Morgan	Thompson
Dahlund	Kelly	Rait	Trenbeath
Ecker	Kisse	Reichert	Tuff
George	Kjos	Ringsak	Van Horn
Forkner	Larson	Rolfsrud	Walz

Those voting in the negative were:

Mahoney	Redlin	Robinson	Torgerson
Mutch			

Absent and not voting:

Berube	Roen	Sinner	Weber
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Nelson Saumur Urdahl Witteman
 So the report was declared adopted.

MESSAGE FROM THE HOUSE

House Chamber
 Bismarck, June 16, 1965

Mr. President: I have the honor to inform you that the House has adopted the Conference Committee report on Senate Bill No. 8, and the Speaker has appointed as a new Conference Committee to act with a like committee from the Senate, Representatives:

Shablow
 Meschke
 Dornacker

DONNELL HAUGEN, Chief Clerk

MOTION

Senator Holand moved that the action by which Senate Bill No. 4 was indefinitely postponed be reconsidered.

Lt. Gov.: I will make a ruling that such motion will require a two-thirds vote because a legislative day passed and on the basis of that I wanted to inform the body.

The question being on the motion of Senator Holand, a division was had, and the motion was declared lost for lack of a two-thirds vote.

Senator Holand moved that the Senate recess subject to the call of the chair, which motion prevailed.

The Senate reconvened pursuant to recess taken, the President presiding.

MESSAGES FROM THE HOUSE

House Chamber
 Bismarck, June 16, 1965

Mr. President: I have the honor to request the return of Senate Bill No. 9.

DONNELL HAUGEN, Chief Clerk

MESSAGE FROM THE HOUSE

House Chamber
 Bismarck, N. D., June 16, 1965

Mr. President: I have the honor to inform you that the House has adopted the Conference Committee report on Senate Bill No. 8 and the Speaker has appointed as a new conference committee to act with a like committee from the Senate, Representatives:

Backes
 Meschke
 Davis

DONNELL HAUGEN, Chief Clerk

MOTION

Senator Holand moved that the Senate reconsider the action by which Senate Bill No. 4 was indefinitely postponed.

Senator Reichert: Mr. President. What I am about to say, Miss Reporter, is for myself only and for the record. I have heard this motion. I do not pretend to favor all the parts of this bill. There are parts of it I do not consider favorable. Nevertheless, I do consider that the majority should and have an utter and complete right to reconsider, and for that reason for myself only I am going to vote to reconsider.

The question being on the motion of Senator Holand that the Senate reconsider the action by which Senate Bill No. 4 was indefinitely postponed, and there being no request for a division, the motion was declared carried.

SECOND READING OF SENATE BILLS

Senate Bill No. 4. A Bill for an Act to provide for the imposition of a three percent sales tax, use tax, and motor vehicle excise and use tax, exemptions thereto, manner of collection and administration, appeals, penalties, refunds, allocation of revenues, effect on existing laws, and providing effective dates.

Was read the second time.

Senator Becker moved that Senate Bill No. 4 be amended as follows:

Delete everything after the words "A BILL" and insert the following in lieu thereof:

"For an Act to provide for the imposition of a temporary sales tax, exemptions thereto, manner of collection and administration, appeals, penalties, refunds, allocation of revenues, effect on existing laws, and providing effective dates.

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

SECTION 1. DEFINITIONS.) The following words, terms and phrases, when used in this Act, have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Person" includes any individual, firm, partnership, joint adventure, association, corporation, estate, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number;
2. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration, and includes the furnishing of services relating to personal property, the furnishing or service of steam, gas, electricity, water, or communication, the furnishing of hotel, motel, or tourist court accommodations, the furnishing of tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin, and sales of subscriptions to magazines and other periodicals regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription; provided that the words "magazines and other periodicals" as used herein shall not include newspapers nor shall they include magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues;
3. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, electricity, water, and communication service to retail consumers or users; the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, services relating to personal property, tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding,

manufacturing, producing or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to other real or personal property otherwise exempt from the sales tax shall be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated outside of North Dakota shall not be considered a taxable sale;

4. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect;
5. "Retailer" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, electricity, water and communication services, or tickets or admissions to places of amusement, entertainment and athletic events including the playing of any machine for amusement or entertainment in response to the use of a coin, or services relating to personal property, or magazines, or other periodicals; and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in manner provided in this Act; and shall include the state or any municipality furnishing steam, gas, electricity, water, or communication service to members of the public in its proprietary capacity;
6. "Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided, however, that on all sales of retailers, valued in money, when such sales are made under conditional sales contract, or under other forms of sale wherein the payment of the principal sum thereunder be extended over a period longer than sixty days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted for, for the purpose of imposition of tax imposed by this Act, as has actually been received in cash by the retailer during each quarterly period as defined herein. "Gross receipts" shall also mean, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only such tangible personal property the transfer of title to which has not been subjected to a retail sales tax in this state. "Gross receipts" shall also mean, with respect to subscriptions to magazines and other

periodicals, the amount of consideration, valued in money, whether received in money or otherwise, received from the sale of such subscriptions regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription;

7. "Relief agency" means the state, any county, city and county, city or district thereof, or an agency engaged in actual relief work;
8. "Commissioner" means the tax commissioner of the state of North Dakota; and
9. "Local governmental unit" means incorporated cities, towns and villages, counties, school districts and townships.

SECTION 2. TAX IMPOSED.) Except as otherwise expressly provided by this Act, there is hereby imposed a tax of two and one-quarter percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as hereinafter provided in this section, within the state of North Dakota of the following to consumers or users:

1. Tangible personal property, consisting of goods, wares, or merchandise;
2. The furnishing or service of steam, gas, electricity, water, or communication services;
3. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment or athletic activity, and including the playing of any machine for amusement or entertainment in response to the use of a coin;
4. Magazines and other periodicals, including subscriptions thereto;
5. The leasing or renting of hotel, motel, or tourist court accommodations for periods of less than thirty consecutive calendar days or one month;
6. Services furnished in repairing, altering, restoring, or cleaning any tangible personal property provided that this subsection shall not apply to retailers who furnish such services to agricultural producers with respect to agricultural products; and
7. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under the provisions of chapter 57-40 or chapter 57-40.1 of the North Dakota Century Code.

SECTION 3. EXEMPTIONS.) There are specifically exempted from the provisions of this Act and from computation of the amount of tax imposed by it:

1. Gross receipts from sales of tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state;
2. Gross receipts from the sales, furnishing or service of transportation service;
3. Gross receipts from sales of tangible personal property processed from agricultural products, when such property is sold in exchange for like agricultural products produced by the purchaser and is for the purchaser and his family;
4. Gross receipts from sales of tickets, or admissions to state, county, district and local fairs, and the gross receipts from educational, religious, or charitable activities, where the entire

amount of such receipts is expended for educational, religious or charitable purposes;

5. Gross receipts from the sale by any school board of this state of books and school supplies to regularly enrolled students at costs;
6. Gross receipts from sales of tangible personal property or from furnishing or service of steam, gas, electricity, water, and communication service to the United States, state of North Dakota, or any of its subdivisions, departments or institutions, any county, city, village, township, school district, park district, or municipal corporation;
7. Gross receipts from the sale, by any drug store, of drugs sold under a doctor's prescription;
8. Gross receipts from sales of commercial fertilizers and from the sale of seeds, roots, bulbs and small plants to users or consumers for planting or transplanting for vegetable gardens or agricultural purposes;
9. Gross receipts from sales of oxygen sold to any person who purchases it upon the written order of a doctor for his own use for medical purposes; and
10. Gross receipts from the sale of gasoline, cigarettes, snuff, insurance premiums, or any other article or product upon which the state of North Dakota imposes a special tax.

SECTION 4. CREDIT FOR TAXES PAID ON WORTHLESS ACCOUNTS.) Taxes paid on gross receipts represented by accounts found to be worthless and actually charged off for income purposes may be credited upon subsequent payment of the tax herein provided; provided, that if such accounts are hereafter collected by the retailer, a tax shall be paid upon the amount so collected.

SECTION 5. CREDIT TO RELIEF AGENCY AND LOCAL GOVERNMENTAL UNITS.) A relief agency may apply to the commissioner for refund of the amount of tax imposed hereunder and paid upon sales to it of any goods, wares, or merchandise used for free distribution to the poor and needy. Such refunds may be obtained only in the following amount and in the manner and only under the following conditions:

1. On forms furnished by the commissioner, and during the time herein provided for the filing of quarterly tax returns by retailers, the relief agency shall report to the commissioner the total amount or amounts, valued in money, expended directly or indirectly for goods, wares, or merchandise used for free distribution to the poor and needy;
2. On these forms the relief agency shall separately list the persons making the sales to it or to its order, together with the dates of the sales, and the total amount so expended by the relief agency; and
3. The relief agency must prove to the satisfaction of the commissioner that the person making the sales has included the amount thereof in the computation of the gross receipts of of such person and that such person has paid the tax levied by this Act, based upon such computation of gross receipts.

If the commissioner is satisfied that the foregoing conditions and requirements have been complied with, he shall refund the amount claimed by the relief agency.

SECTION 6. TAX TO BE ADDED TO PURCHASE PRICE AND BE A DEBT.) Retailers shall add the tax imposed under this Act, or the average equivalent thereof, to the sales price or charge and when added such taxes shall constitute a part of such price or charge, shall be a debt from the consumer or user to the retailer

until paid, and shall be recoverable at law in the same manner as other debts.

In adding such tax to the price or charge, retailers shall adopt the following bracket system for the application of the tax:

\$0.01 to \$0.19	no tax
.20 to .59	1¢ tax
.60 to .99	2¢ tax
1.00 to 1.49	3¢ tax
1.50 to 1.99	4¢ tax
2.00 to 2.49	5¢ tax
2.50 to 2.99	6¢ tax
3.00 to 3.49	7¢ tax
3.50 to 3.99	8¢ tax

An additional tax of 1¢ for each 50¢, or fraction thereof, over \$3.99 except that for each full \$4.00 there shall be collected a tax of 9¢.

SECTION 7. UNLAWFUL ACT.) No retailer shall advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this Act shall be assumed or absorbed by the retailer or that it will not be considered as an element in the price to the consumer or, if added, that it or any part thereof will be refunded.

SECTION 8. RECORDS REQUIRED.) Every retailer required to make a report and pay any tax under this Act, shall preserve such records of the gross proceeds of sale as the commissioner may require and every retailer shall preserve for a period of six years all invoices and other records of goods, wares, or merchandise purchased for resale. All such books, invoices, and other records shall be open to examination at any time by the commissioner or any of his duly authorized agents.

SECTION 9. RETURN OF GROSS RECEIPTS.) 1. On or before the last day of the month following the close of the first quarterly period as defined in the following section, and on or before the last day of the month following each subsequent quarterly period of three months, the retailer shall make out a return for the preceding quarterly period in such form and manner as may be prescribed by the commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further information as the commissioner may require to enable him correctly to compute and collect the tax herein levied. The commissioner upon request by any retailer and a proper showing of the necessity therefor, may grant unto such retailer an extension of time not to exceed thirty days for making such return. If such extension is granted to any such retailer, the time in which he is required to make payment as provided for in section 10 of this Act shall be extended for the same period;

2. The commissioner, if he deems it necessary or advisable in order to insure the payment of the tax imposed by this Act, may require returns and payment of the tax to be made for other than quarterly periods, the provisions of section 10 or elsewhere to the contrary notwithstanding; and

3. Returns shall be signed by the retailer or his duly authorized agent.

SECTION 10. PAYMENT OF TAX, BOND, CREATION OF LIEN.) 1. The tax levied under the provisions of this Act shall be due and payable in quarterly installments on or before the last day of the month next succeeding each calendar quarterly period, except that when there is a sale of any business by any retailer or when any business is discontinued by a retailer, the tax shall become due immediately prior to the sale or discontinuance of such business and if not paid within fifteen days thereafter it shall be-

come delinquent and subject to the penalties provided in section 16 of this Act.

2. Every retailer, at the time of making the return required hereunder, shall compute and pay to the commissioner the tax due for the preceding period;

3. The commissioner, when in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under this Act, may require any person subject to such tax to file with him 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 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 commissioner in such amounts as he may prescribe, may be deposited with him, which securities shall be kept in the custody of the commissioner and may be sold by him at public or private sale, without notice to the depositor thereof, if it becomes necessary so to do in order to recover any tax and penalties due. All moneys received by the state tax commissioner under the provisions of this section shall be deposited in the general fund. The state tax commissioner shall issue a voucher for the unused money received by him to the persons entitled thereto and such funds are hereby appropriated from the general fund for such purposes.

4. Remittances on account of tax due under this Act shall not be deemed or considered payment thereof unless or until the commissioner shall have collected or received the amount due for such tax in cash or equivalent credit.

SECTION 11. LIEN OF TAX — COLLECTION — ACTION AUTHORIZED.) 1. Whenever any taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the same, the amount, including any interest, penalty, or addition to such tax, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to said taxpayer, and in the case of property in which a deceased taxpayer held an interest as joint tenant or otherwise with right of survivorship at the time of his death, the lien shall continue as a lien against the property in the hands of the survivor or survivors to the extent of the deceased taxpayer's interest therein, which interest shall be determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein;

2. The lien aforesaid shall attach at the time the tax becomes due and payable and shall continue until the liability for such amount is satisfied; for the purposes of this provision the words "due" and "due and payable" shall mean the first instant at which the tax becomes due;

3. In order to preserve the aforesaid lien against subsequent mortgages, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the tax commissioner shall file with the register of deeds of the county in which said property is located, a notice of said lien;

4. The register of deeds of each county shall prepare and keep in his office a book known as "Index of Tax Liens", so ruled as to show in appropriate columns the following data, under the names of taxpayers, arranged alphabetically:

- a. The name of the taxpayer;
- b. The name "State of North Dakota" as claimant;
- c. Time notice of lien was received;
- d. Date of notice;

- e. Amount of lien then due; and
- f. When satisfied.

The register of deeds shall endorse on each notice of lien the day, hour and minute when received and preserve the same, and forthwith shall index said notice in said index book and forthwith shall record said lien in the manner provided for recording real estate mortgages, and the said lien shall be effective from the time of the indexing thereof;

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

6. Upon the payment of a tax as to which the tax commissioner has filed notice with the register of deeds, the tax commissioner forthwith shall file with said register of deeds a satisfaction of said tax and the register of deeds shall enter said satisfaction on the notice on file in his office and indicate said fact on the index aforesaid;

7. The attorney general, upon the request of the tax commissioner, shall bring an action at law or in equity, as the facts may justify, without bond to enforce payment of any taxes and any penalties, or to foreclose the lien therefor in the manner provided for mortgages on real or personal property, and in such action he shall have the assistance of the state's attorney of the county in which the action is pending;

8. It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the tax commissioner or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law;

9. The technical, legal requirements outlined in this section relating to tax liens on all real and personal property of the taxpayer to insure payment of the taxes, including penalties, interest and other costs, are self-explanatory.

SECTION 12. PERMITS — APPLICATION AND FEE.) 1. No person shall engage in or transact business as a retailer within this state unless a permit or permits shall have been issued to him as hereinafter prescribed. Every person desiring to engage in or conduct business as a retailer within this state shall file with the commissioner an application for a permit or permits. Every application for such a permit shall be made upon a form prescribed by the commissioner and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the commissioner may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner thereof; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority;

2. At the time of making such application, the applicant shall pay to the commissioner a permit fee of fifty cents for each permit, and the applicant shall have a permit for each place of business;

3. Upon the payment of the permit fee, or fees herein required, the commissioner shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which 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 required by this section; for the purposes of this sentence the term "transient merchant" shall include any person, individual, co-partnership, or corporation, either as principal or agent, who solicits, engages in, does, or transacts any temporary or transient business in this state, either in one locality, or in traveling from place to place in this 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 case or sample case of any kind for the exhibition and sale of such goods, wares, and merchandise.

4. Permits issued under the provisions of this section shall be valid and effective without further payment of fees until revoked by the commissioner;

5. Whenever the holder of a permit fails to comply with any of the provisions of this Act or any rules or regulations prescribed by the commissioner and adopted under this Act, or whenever the holder of a permit shall file returns showing no tax due for four consecutive quarters, the commissioner upon hearing after giving ten days' notice of the time and place of the hearing to show cause why his permit should not be revoked, may revoke the permit. The commissioner also shall have the power to restore licenses after such revocation;

6. The commissioner shall charge a fee of one dollar for the issuance of a permit to a retailer whose permit has been previously revoked; and

7. All permits in effect at the time this Act takes effect are hereby continued and shall remain in full force and effect unless revoked as herein provided; provided that the commissioner may issue a new form of permit to replace, at no charge to the permit holders, all permits previously granted and issued that have not been revoked or surrendered.

SECTION 13. FAILURE TO FILE RETURN — INCORRECT RETURN.) If a return required by this Act is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the same is required by notice from the commissioner, such commissioner shall determine the amount of tax due from such information as he may be able to obtain, and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by him, his stock on hand, and other factors. The commissioner shall give notice of such determination to the person liable for the tax. Such determination shall fix the tax finally and irrevocably unless the person against whom it is assessed, within thirty days after the giving of notice of such determination, shall apply to the commissioner for a hearing or unless the commissioner of his own motion shall reduce the same. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the commissioner shall give notice of his decision to the person liable for the tax.

SECTION 14. APPEALS.) An appeal may be taken by the taxpayer to the district court of the county in which he resides, or in which his principal place of business is located, within sixty days after he shall have received notice from the commissioner of his determination as provided for in section 13 of this Act;

2. The appeal shall be taken by a written notice to the commissioner and served as an original notice. When said notice is so

served it shall be filed with the return thereon in the office of the clerk of said district court, and docketed as other cases, with the taxpayer as plaintiff and the commissioner as defendant. The plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by such clerk, in penalty at least double the amount of tax appealed from and in no case shall the bond be less than fifty dollars, conditioned that the plaintiff shall perform the orders of the court; and

3. The court shall hear the appeal in equity and determine anew all questions submitted to it on appeal from the determination of the commissioner. The court shall render its decree thereon and a certified copy of said decree shall be filed by the clerk of said court with the commissioner who shall then correct the assessment in accordance with said decree. An appeal may be taken by the taxpayer or the commissioner to the supreme court of this state in the same manner that appeals are taken in suits in equity, irrespective of the amount involved.

SECTION 15. SERVICE OF NOTICE.) 1. Any notice, except notice of appeals, authorized or required under the provisions of this Act may be given by mailing the same to the person for whom it is intended by registered or certified mail addressed to such person at the address given in the last return filed by him pursuant to the provisions of this Act, or if no return has been filed, then such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this Act by giving of notice shall commence to run from the date of registration and posting of such notice;

2. If any tax imposed by this Act or by chapter 57-40 of the North Dakota Century Code remains unpaid, a proceeding in court for the collection of such tax may be begun at any time within six years after the due date of such tax; provided that no limitation of time to collect such tax shall apply if the failure to pay such tax was due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax. The limitations provided by this Act in regard to a commencement of court proceedings shall not apply to any assessment of tax made by the tax commissioner prior to July 1, 1963.

SECTION 16. PENALTIES, OFFENSES.) 1. Any person failing to file a return or corrected return or to pay any tax within the time required by this Act, shall be subject to a penalty of five percent of the amount of tax due, 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, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the commissioner and disposed of in the same manner as other receipts under this Act. Unpaid penalties may be enforced in the same manner as the tax imposed by this Act;

2. Any person who shall sell tangible personal property, tickets or admissions to places of amusement, and athletic events, or steam, gas, water, electricity and communication service at retail in this state after his license shall have been revoked, or without procuring a license within sixty days after the effective date of this Act, as provided in section 12 of this Act, or who shall violate the provisions of section 7 of this Act, and the officers of any corporation who shall so act, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment, in the discretion of the court;

3. Any person required to make, render, sign or verify any return or supplementary return, who makes any false or fraudulent return

with intent to defeat or evade the assessment required by law to be made, shall be guilty of a misdemeanor and, for each such offense, shall be fined not to exceed five hundred dollars or shall be imprisoned in the county jail not exceeding one year, or shall be subject to both a fine and imprisonment, in the discretion of the court;

4. The certificate of the commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this Act, shall be prima facie evidence thereof;

5. Any person failing to comply with any of the provisions of this Act, or failing to remit within the time herein provided to the state the tax due on any sale or purchase of tangible personal property subject to said sales tax, shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months or by a fine of not exceeding five hundred dollars, or by both such fine and imprisonment, in the discretion of the court. This criminal liability shall be cumulative and in addition to the civil liability for penalties hereinbefore provided.

SECTION 17. TAX COMMISSIONER TO ADMINISTER ACT.) The tax commissioner is hereby charged with the administration of this Act and the taxes imposed thereby. Such commissioner may prescribe all rules and regulations not inconsistent with the provisions of this Act, necessary and advisable for its detailed administration and to effectuate the purposes, including the right to provide for the issuance and sale by the state of coupons covering the amount of tax or taxes to be paid under this Act, if such method is deemed advisable by said commissioner.

SECTION 18. TAX AND PENALTIES PAID TO COMMISSIONER — DISPOSITION.) All fees, taxes, interest, and penalties imposed and collected under this Act shall be paid to the commissioner in the form of a remittance payable to the treasurer of the state of North Dakota, and said commissioner shall transmit each payment monthly to the state treasurer to be deposited in the state treasury to the credit of the general fund.

SECTION 19. GENERAL POWERS.) 1. The commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income and receipts of any taxpayer, shall have power to examine or cause to be examined by any agent or representative designated by him, books, papers, records, or memoranda; to require by subpoena the attendance and testimony of witnesses; to issue and sign subpoenas; to administer oaths; to examine witnesses and receive evidence; to compel witnesses to produce for examination books, papers, records, and documents relating to any matter which he shall have the authority to investigate or determine;

2. Where the commissioner finds the taxpayer has made a fraudulent return, the costs of said hearing shall be taxed to the taxpayer. In all other cases the cost shall be paid by the state;

3. The fees and mileage to be paid witnesses and taxed as costs shall be the same as prescribed by law in proceedings in the district court of this state in civil cases. All costs shall be taxed in the manner provided by law in proceedings in civil cases. Where the costs are taxed to the taxpayer, they shall be added to the taxes assessed against said taxpayer and shall be collected in the same manner. Costs taxed to the state shall be certified by the commissioner to the state treasurer, who shall issue warrants for the amount of said costs, to be paid out of the proceeds of the taxes collected under this Act;

4. In cases of disobedience to a subpoena the commissioner may invoke the aid of any court of competent jurisdiction in requiring

the attendance and testimony of witnesses and production of records, books, papers, and documents, and such court may issue an order requiring the person to appear before the commissioner and give evidence or produce records, books, papers, and documents, as the case may be, and any failure to obey such order of court may be punished by the court as contempt thereof;

5. Testimony on hearings before the commissioner may be taken by a deposition as in civil cases, and any person may be compelled to appear and depose in the same manner as witnesses may be compelled to appear and testify as hereinbefore provided.

SECTION 20. COMMISSIONER MAY APPOINT AGENTS AND EMPLOYEES — COMPENSATION — BOND.) 1. The commissioner may appoint such agents, auditors, clerks and employees as he may deem necessary, fix their salaries and compensation and prescribe their duties and powers, and may remove such persons so appointed by him. Each auditor appointed by the commissioner shall have had at least three years' experience, or the educational equivalent thereof, in the auditing and checking of books of account;

2. All such agents and employees shall be allowed such reasonable and other necessary traveling expenses as may be incurred in the performance of their duties not to exceed, however, such amounts as are now or may hereafter be fixed by law;

3. The commissioner may require such of the officers, agents, and employees as he may designate to give bond for the faithful performance of the duties in such sum and such sureties as he may determine and the state shall pay, out of the proceeds of the taxes collected under the provisions of this Act, the premiums on such bonds;

4. The commissioner may utilize the office of the treasurer of the various counties in order to administer this Act and effectuate its purposes and may appoint the treasurers of the various counties his agents to collect any or all of the taxes imposed by this Act. No additional compensation shall be paid to said treasurer by reason thereof.

SECTION 21. INFORMATION DEEMED CONFIDENTIAL — PENALTY.) It shall be unlawful for the commissioner, or any person having an administrative duty under this Act, to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any person or corporation visited or examined in the discharge of official duty, or the amount or sources of income, profits, losses, expenditures or any particulars thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract of particulars thereof to be seen or examined by any person except as provided by law. The commissioner may authorize examination of such returns by other state officers, or, if a reciprocal arrangement exists, by tax officers of another state, or the federal government. Any person violating the provisions of this section shall be guilty of a misdemeanor and punishable by a fine of not to exceed one thousand dollars.

SECTION 22. CORRECTION OF ERRORS.) If it shall appear that, as a result of a mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of this Act, then such amount shall be credited against any tax due, or to become due, under this Act from the person who made the erroneous payment, or such amount shall be refunded to such person by the commissioner.

SECTION 23. PAYMENT OF REFUND.) Wherever by any provisions of this Act a refund is authorized, the commissioner shall

certify the amount of the refund, the reason therefor and the name of the payee to the department of accounts and purchases, who shall thereupon draw a warrant on the general fund in the amount specified payable to the named payee.

SECTION 24. ALLOCATION OF REVENUE.) All moneys collected and received under this Act shall be paid into the state treasury and shall be credited by the state treasurer to the general fund.

SECTION 25. EFFECT ON EXISTING LAWS.) The provisions of this Act shall be construed as superseding the provisions of chapter 57-39 of the North Dakota Century Code during such time as specified in section 26 of this Act. Any reference in the North Dakota Century Code to chapter 57-39 or any part of such chapter, shall be construed as a reference to this Act, or the applicable section of this Act, during such time as this Act remains in effect.

SECTION 26. EFFECTIVE DATE.) The provisions of this Act shall remain in effect until the following events occur:

1. In the event House Bill No. 698 of the Thirty-ninth Regular Session, also known as chapter 386 of the 1965 Session Laws, shall be referred and approved by the electorate at any election, then, and in that event, upon the date House Bill No. 698 shall become effective, the tax imposed by this Act shall cease, and this Act shall become inoperative except as to tax liabilities incurred prior to the date of its expiration; or
2. In the event a sales tax Act of two and one-quarter percent or more upon the gross receipts of retailers is submitted to and adopted by the electorate at any election, then, and in such event, upon the date such an initiated sales tax Act shall become effective, the tax imposed by this Act shall become inoperative except as to tax liabilities incurred prior to the date of its expiration.
3. In any event the provisions of this Act shall not remain in effect beyond the first day of July, 1967."

The President ruled that the reading of the amendments to Senate Bill No. 4 be dispensed with.

Senator Reichert requested a recorded vote on the Motion of Senator Becker, which request was granted.

ROLL CALL

The question being on the motion of Senator Becker to amend Senate Bill No. 4 the roll was called and there were ayes, 29; nays, 20; absent and not voting 0.

Those voting in the affirmative were:

Baeverstad	Holand	Luick	Roen
Beck	Kautzmann	Morgan	Ruemmele
Becker	Kelly	Mutch	Saumur
Chesrown	Kisse	Nelson	Sorlie
Dahlund	Kjos	Redlin	Strinden
Forkner	Lips	Ringsak	Torgerson
George	Longmire	Robinson	Trenbeath
Hernett			

Those voting in the negative were:

Berube	Larson	Rolfstrud	Urdahl
Bopp	Lashkowitz	Sinner	Van Horn
Ecker	Mahoney	Solberg	Walz
Jurgensen	Rait	Thompson	Weber
Kadlec	Reichert	Tuff	Witteman

So the motion was declared carried.

REPORT OF A STANDING COMMITTEE

Mr. President: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bills:

Senate Bill No. 4

And find the same correctly engrossed.

SENATOR BECK, Chairman

Senator Beck moved that the report be adopted, which motion prevailed.

MOTION

Senator Holand moved that the rules be suspended and that Senate Bill No. 4 be placed on second reading and final passage, as amended, which motion prevailed.

SECOND READING OF SENATE BILLS

Senate Bill No. 4. A Bill for an Act to provide for the imposition of a temporary sales tax, exemptions thereto, manner of collection and administration, appeals, penalties, refunds, allocation of revenues, effect on existing laws, and providing effective dates.

Was read the second time.

ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were ayes, 29; nays, 20; absent and not voting 0.

Those voting in the affirmative were:

Baeverstad	Holand	Luick	Roen
Beck	Kautzmann	Morgan	Ruemmele
Becker	Kelly	Mutch	Saumur
Chesrown	Kisse	Nelson	Sorlie
Dahlund	Kjos	Redlin	Strinden
Forkner	Lips	Ringsak	Torgerson
George	Longmire	Robinson	Trenbeath
Hernett			

Those voting in the negative were:

Berube	Larson	Rolfsrud	Urdahl
Bopp	Lashkowitz	Sinner	Van Horn
Ecker	Mahoney	Solberg	Walz
Jurgensen	Rait	Thompson	Weber
Kadlec	Reichert	Tuff	Witteman

So the bill was passed and the title was agreed to.

Senator Longmire moved that the vote by which Senate Bill No. 4 was passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

MESSAGE TO THE HOUSE

Senate Chamber

Bismarck, June 16, 1965

Mr. Speaker: I have the honor to transmit:

Senate Bill No. 4.

Which the Senate has passed and your favorable consideration is requested.

GERALD L. STAIR, Secretary

PERSONAL PRIVILEGE

SENATOR HERNETT: Mr. President, I rise on a point of personal privilege and I want my remarks recorded in the Journal.

As you all know there were only five employees hired for this session, but you have noticed I am sure that we have had four pages during these last few days. These are:

Steve Holand, Lisbon;
John Quanrud, Bismarck;
Kay Peters, Bismarck;
Elda Kisse, Halliday.

These young people came in here and volunteered their services. I think this was very fine of them and it shows that our young people do take an active interest in what goes on here. We are very happy at this time to have the Secretary present to each of these young people a token of our appreciation for the services rendered, and let's give them a round of applause.

REPORT OF SELECT COMMITTEES

Mr. President: Your Conference Committee to whom was referred Senate Bill No. 8 has had the same under consideration and recommends: That the Conference Committee be discharged and a new Conference Committee be appointed.

For the Senate:

Senator Holand
 Senator Becker
 Senator Van Horn

For the House:

Rep. Shablow
 Rep. Meschke
 Rep. Dornacker

Senator Holand moved that the report be adopted.

Senator Ringsak made the substitute motion that further consideration of Senate Bill No. 8 be laid on the table, which motion prevailed.

MOTION

Senator Holand moved that after the completion of the fifteenth and sixteenth order of business that the Senate adjourn sine die.

The President ruled the motion to adjourn sine die out of order and cited Section 51 of the Constitution in support of such ruling.

Senator Sinner moved that the Senate be in recess until 9:00 a.m. tomorrow morning.

Senator Holand resisted the motion.

There being no request for a division, the motion was declared lost.

Senator Holand moved that the Senate recess for ten minutes, which motion prevailed.

The Senate reconvened pursuant to recess taken, the President presiding.

MOTION

Senator Holand moved that the Senate do now adjourn until 2:00 p.m. June 19, 1965.

The President ruled that the motion of Senator Holand was out of order.

Senator Holand then appealed from the decision of the chair.

The question then being on the question "Shall the Chair be sustained?" and a division was had and the Chair was overruled.

The question then being on the motion of Senator Holand that the Senate adjourn until 2 p.m., June 19, 1965, which motion prevailed, and the Senate stood adjourned.

GERALD L. STAIR, Secretary

SIXTH DAY

Bismarck, June 19, 1965

The Senate convened at 2:00 p.m., the President presiding.

Prayer by Chaplain J. H. Nicolai, Trinity Lutheran, Bismarck.

Roll call: All Senators present except Senators Baeverstad, Beck, Becker, Chesrown, Dahlund, Ecker, Forkner, George, Hernet, Holand, Kautzmann, Kelly, Kisse, Longmire, Luick, Mahoney, Mutch, Nelson, Redlin, Ringsak, Robinson, Roen, Ruemmele, Saumur, Sorlie, Strinden, Torgerson, and Trenbeath.

So the President declared that the Senate lacked a quorum.

Senator Reichert moved that due to the absence of a quorum that the Senate be in recess until two o'clock on Monday, which will be the 21st of June, 1965, which motion prevailed.

GERALD L. STAIR, Secretary

SIXTH DAY AFTER RECESS

Bismarck, June 21, 1965

The Senate convened at 2:00 p.m., pursuant to recess taken, the President presiding.

Roll call: All Senators present except Senator Mahoney.

A quorum was declared by the President.

Mr. President: Your Committee on Revision and Correction of the Journal has carefully examined the Journal of the second day after recess and third day and find the same correct.

SENATOR KISSE, Chairman

Senator Kisse moved that the report be adopted, which motion prevailed.

REPORT OF A STANDING COMMITTEE

Mr. President: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bills:

Senate Bills Nos. 5 - 6 - 9

Senate Concurrent Resolution "B"

Senate Resolution No. 1

And find the same correctly enrolled.

SENATOR BECK, Chairman

Senator Beck moved that the report be adopted, which motion prevailed.

SIGNING OF BILLS

The Secretary announced that the President was about to sign:

Senate Bill No. 5

Senate Bill No. 6

Senate Bill No. 9

Senate Concurrent Resolution "B"

Senate Resolution No. 1

And the President signed the same in the presence of the Senate.

MESSAGE TO THE HOUSE

Senate Chamber

Bismarck, June 21, 1965

Mr. Speaker: I have the honor to transmit:

Senate Bills Nos. 5 - 6 - 9

Senate Concurrent Resolution "B"

Which the President has signed and your signature is respectfully requested.

GERALD L. STAIR, Secretary

MESSAGE FROM THE HOUSE

House Chamber

Bismarck, June 21, 1965

Mr. President: I have the honor to return:

Senate Bill No. 4

Which the House has amended as follows:

AMENDMENTS TO SENATE BILL No. 4

"For an Act to provide for the imposition of a temporary sales tax, exemptions thereto, manner of collection and administration, appeals, penalties, refunds, allocation of revenues, effect on existing laws, and providing effective dates.

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

SECTION 1. DEFINITIONS.) The following words, terms and phrases, when used in this Act, have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Person" includes any individual, firm, partnership, joint adventure, association, corporation, estate, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number;
2. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration, and includes the furnishing of services relating to personal property, the furnishing or service of steam, gas, electricity, water, or communication, the furnishing of hotel, motel, or tourist court accommodations, the furnishing of tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin, and sales of subscriptions to magazines and other periodicals regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription; provided that the words "magazines and other periodicals" as used herein shall not include newspapers nor shall they include magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues;
3. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, electricity, water, and communication service to retail consumers or users; the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, services relating to personal property, tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding, manufacturing, producing or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to other real or personal property otherwise exempt from the sales tax shall be considered as a sale of tangible personal property for a

- purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated outside of North Dakota shall not be considered a taxable sale;
4. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect;
 5. "Retailer" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, electricity, water and communication services, or tickets or admissions to places of amusement, entertainment and athletic events including the playing of any machine for amusement or entertainment in response to the use of a coin, or services relating to personal property, or magazines, or other periodicals; and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in manner provided in this Act; and shall include the state or any municipality furnishing steam, gas, electricity, water, or communication service to members of the public in its proprietary capacity;
 6. "Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided, however, that on all sales of retailers, valued in money, when such sales are made under conditional sales contract, or under other forms of sale wherein the payment of the principal sum thereunder be extended over a period longer than sixty days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted for, for the purpose of imposition of tax imposed by this Act, as has actually been received in cash by the retailer during each quarterly period as defined herein. "Gross receipts" shall also mean, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only such tangible personal property the transfer of title to which has not been subjected to a retail sales tax in this state. "Gross receipts" shall also mean, with respect to subscriptions to magazines and other periodicals, the amount of consideration, valued in money, whether received in money or otherwise, received from the sale of such subscriptions regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription;

7. "Relief agency" means the state, any county, city and county, city or district thereof, or an agency engaged in actual relief work;
8. "Commissioner" means the tax commissioner of the state of North Dakota; and
9. "Local governmental unit" means incorporated cities, towns and villages, counties, school districts and townships.

SECTION 2. TAX IMPOSED.) Except as otherwise expressly provided by this Act, there is hereby imposed a tax of two and one-quarter percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as hereinafter provided in this section, within the state of North Dakota of the following to consumers or users:

1. Tangible personal property, consisting of goods, wares, or merchandise;
2. The furnishing or service of steam, gas, electricity, water, or communication services;
3. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment or athletic activity, and including the playing of any machine for amusement or entertainment in response to the use of a coin;
4. Magazines and other periodicals, including subscriptions thereto;
5. The leasing or renting of hotel, motel, or tourist court accommodations for periods of less than thirty consecutive calendar days or one month;
6. Services furnished in repairing, altering, restoring, or cleaning any tangible personal property provided that this subsection shall not apply to retailers who furnish such services to agricultural producers with respect to agricultural products; and
7. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under the provisions of chapter 57-40 or chapter 57-40.1 of the North Dakota Century Code.

SECTION 3. EXEMPTIONS.) There are specifically exempted from the provisions of this Act and from computation of the amount of tax imposed by it:

1. Gross receipts from sales of tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state;
2. Gross receipts from the sales, furnishing or service of transportation service;
3. Gross receipts from sales of tangible personal property processed from agricultural products, when such property is sold in exchange for like agricultural products produced by the purchaser and is for the purchaser and his family;
4. Gross receipts from sales of tickets, or admissions to state, county, district and local fairs, and the gross receipts from educational, religious, or charitable activities, where the entire amount of such receipts is expended for educational, religious or charitable purposes;
5. Gross receipts from the sale by any school board of this state of books and school supplies to regularly enrolled students at costs;
6. Gross receipts from all sales otherwise taxable under this

- chapter made to the United States or any state thereof, including the state of North Dakota, or any of the subdivisions, departments, agencies or institutions thereof;
7. Gross receipts from the sale, by any drug store, of drugs sold under a doctor's prescription;
 8. Gross receipts from sales of commercial fertilizers and from the sale of seeds, roots, bulbs and small plants to users or consumers for planting or transplanting for vegetable gardens or agricultural purposes;
 9. Gross receipts from sales of oxygen sold to any person who purchases it upon the written order of a doctor for his own use for medical purposes; and
 10. Gross receipts from the sale of gasoline, cigarettes, snuff, insurance premiums, or any other article or product upon which the state of North Dakota imposes a special tax.
 11. Gross receipts from the sale of feed which is fed to poultry or livestock, including breeding stock and wool bearing stock, for the purpose of producing eggs, milk, meat, fibers or other products for human consumption and the gross receipts from the sale of feed purchased for the purpose of being fed to draft or fur bearing animals. The word "feed" as used herein shall be construed to mean and include only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone, molasses, beet pulp, meat and bone scraps, meal and other generally recognized animal feeds. The term "feed" does not include drugs, medicants, disinfectants, wormers, tonics and like items.
 12. Gross receipts from all sales otherwise taxable under this Act when made to persons who are residents of adjoining states which do not impose or levy a retail sales tax; provided that such persons are in the state of North Dakota for the express purpose of making such purchases, and not as tourists; and provided further that any such person furnish to the North Dakota retailer a certificate signed by him in such form as the tax commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless such certificate is furnished it shall be presumed, until the contrary is shown, that such person was not in the state of North Dakota for the express purpose of making such purchases; provided further that this exemption shall not apply to any sale to any person if the sales price is ten dollars or less. The deduction for this exemption shall not exceed one and one-half of the amount of the deduction for exempt sales in interstate commerce which the retailer was legally entitled to deduct on his sales tax returns for the calendar year 1964. If no deduction was taken for interstate commerce sales on returns filed for the calendar year 1964 or if no returns were required to be filed for the calendar year 1964, the deduction for this exemption shall not exceed the average interstate commerce deduction legally allowed by retailers conducting similar business, as determined by the tax commissioner.

SECTION 4. CREDIT OR REFUND FOR TAXES PAID ON WORTHLESS ACCOUNTS AND REPOSSESSIONS.) 1. Taxes paid on gross receipts represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon subsequent payment of the tax herein provided; provided, that if such accounts are hereafter collected by the retailer, a tax shall be paid upon the amount so collected.

2. If a retailer has remitted the sales tax due on the full amount of an installment sales contract rather than on only the installment payments received as provided in subsection 6 of section 1 of this Act, he may deduct as a credit against his sales tax liability on the

next return that he is required to file the amount of sales tax he paid on the installment contract payments which were not made by the purchaser of the merchandise sold under such contract; such credit may be deducted by the retailer regardless of whether or not said retailer has assigned the contract, provided, however, that if the retailer has assigned the contract he must have assigned it subject to an agreement to repurchase the contract in the event of default by the purchaser under the contract or subject to a guarantee that the payments under the contract would be made. In the event such deduction exceeds the amount of sales tax due the state by the retailer in the next regular return, such excess shall be allowed as credit against future sales tax due from the retailer. If in any case the credit, or any part of it, cannot be utilized by the retailer because of a discontinuance of a business or for other valid reasons, the amount thereof may be refunded to the retailer.

SECTION 5. CREDIT TO RELIEF AGENCY AND LOCAL GOVERNMENTAL UNITS.) A relief agency may apply to the commissioner for refund of the amount of tax imposed hereunder and paid upon sales to it of any goods, wares, or merchandise used for free distribution to the poor and needy. Such refunds may be obtained only in the following amount and in the manner and only under the following conditions:

1. On forms furnished by the commissioner, and during the time herein provided for the filing of quarterly tax returns by retailers, the relief agency shall report to the commissioner the total amount or amounts, valued in money, expended directly or indirectly for goods, wares or merchandise used for free distribution to the poor and needy;
2. On these forms the relief agency shall separately list the persons making the sales to it or to its order, together with the dates of the sales, and the total amount so expended by the relief agency; and
3. The relief agency must prove to the satisfaction of the commissioner that the person making the sales has included the amount thereof in the computation of the gross receipts of such person and that such person has paid the tax levied by this Act, based upon such computation of gross receipts.

If the commissioner is satisfied that the foregoing conditions and requirements have been complied with, he shall refund the amount claimed by the relief agency.

SECTION 6. TAX TO BE ADDED TO PURCHASE PRICE AND BE A DEBT.) Retailers shall add the tax imposed under this Act, or the average equivalent thereof, to the sales price or charge and when added such taxes shall constitute a part of such price or charge, shall be a debt from the consumer or user to the retailer until paid, and shall be recoverable at law in the same manner as other debts.

In adding such tax to the price or charge, retailers shall adopt the following bracket system for the application of the tax:

\$0.01 to \$0.19.....	no tax
.20 to .59.....	1¢ tax
.60 to .99.....	2¢ tax
1.00 to 1.49.....	3¢ tax
1.50 to 1.99.....	4¢ tax
2.00 to 2.49.....	5¢ tax
2.50 to 2.99.....	6¢ tax
3.00 to 3.49.....	7¢ tax
3.50 to 3.99.....	8¢ tax

An additional tax of 1c for each 50c, or fraction thereof, over \$3.99 except that for each full \$4.00 there shall be collected a tax

of 9c.

SECTION 7. UNLAWFUL ACT.) No retailer shall advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this Act shall be assumed or absorbed by the retailer or that it will not be considered as an element in the price to the consumer or, if added, that it or any part thereof will be refunded.

SECTION 8. RECORDS REQUIRED.) Every retailer required to make a report and pay any tax under this Act, shall preserve such records of the gross proceeds of sale as the commissioner may require and every retailer shall preserve for a period of six years all invoices and other records of goods, wares, or merchandise purchased for resale. All such books, invoices, and other records shall be open to examination at any time by the commissioner or any of his duly authorized agents.

SECTION 9. RETURN OF GROSS RECEIPTS.) 1. On or before the last day of the month following the close of the first quarterly period as defined in the following section, and on or before the last day of the month following each subsequent quarterly period of three months, the retailer shall make out a return for the preceding quarterly period in such form and manner as may be prescribed by the commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further information as the commissioner may require to enable him correctly to compute and collect the tax herein levied. The commissioner upon request by any retailer and a proper showing of the necessity therefor, may grant unto such retailer an extension of time not to exceed thirty days for making such return. If such extension is granted to any such retailer, the time in which he is required to make payment as provided for in section 10 of this Act shall be extended for the same period;

2. The commissioner, if he deems it necessary or advisable in order to insure the payment of the tax imposed by this chapter, or if he deems it practical, may require returns and payment of the tax to be made for annual periods or other than quarterly periods, the provisions of this Act to the contrary notwithstanding; and

3. Returns shall be signed by the retailer or his duly authorized agent.

SECTION 10. PAYMENT OF TAX, BOND, CREATION OF LIEN.) 1. The tax levied under the provisions of this Act shall be due and payable in quarterly installments on or before the last day of the month next succeeding each calendar quarterly period, except that when there is a sale of any business by any retailer or when any business is discontinued by a retailer, the tax shall become due immediately prior to the sale or discontinuance of such business and if not paid within fifteen days thereafter it shall become delinquent and subject to the penalties provided in section 16 of this Act.

2. Every retailer, at the time of making the return required hereunder, shall compute and pay to the commissioner the tax due for the preceding period;

3. The commissioner, when in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under this Act, may require any person subject to such tax to file with him 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 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 commissioner in such amounts as he may prescribe, may be deposited with him, which securities shall

be kept in the custody of the commissioner and may be sold by him at public or private sale, without notice to the depositor thereof, if it becomes necessary so to do in order to recover any tax and penalties due. All moneys deposited as security with the state tax commissioner under the provisions of this subsection shall be paid by the state tax commissioner to the state treasurer and shall be credited by the state treasurer into a special fund to be known as the "Retail Sales and Use Tax Security Trust Fund". If any tax, penalty or costs imposed by this Act are not paid when due, by the person depositing moneys with the state tax commissioner as security for the payment of tax, penalty or costs imposed by this Act, the state tax commissioner shall certify that information to the director of accounts and purchases who shall transmit the money to the tax commissioner who shall apply the money deposited by the person or so much thereof as is necessary to satisfy the tax and penalties due. The state tax commissioner, when in his judgment it is no longer necessary to require the deposit to be maintained by the person, shall certify that information to the director of accounts and purchases who shall pay the unused money to the person entitled thereto.

4. Remittances on account of tax due under this Act shall not be deemed or considered payment thereof unless or until the commissioner shall have collected or received the amount due for such tax in cash or equivalent credit.

SECTION 11. LIEN OF TAX — COLLECTION — ACTION AUTHORIZED.)

1. Whenever any taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the same, the amount, including any interest, penalty, or addition to such tax, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to said taxpayer, and in the case of property in which a deceased taxpayer held an interest as joint tenant or otherwise with right of survivorship at the time of his death, the lien shall continue as a lien against the property in the hands of the survivor or survivors to the extent of the deceased taxpayer's interest therein, which interest shall be determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein;

2. The lien aforesaid shall attach at the time the tax becomes due and payable and shall continue until the liability for such amount is satisfied; for the purposes of this provision the words "due" and "due and payable" shall mean the first instant at which the tax becomes due;

3. In order to preserve the aforesaid lien against subsequent mortgages, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the tax commissioner shall file with the register of deeds of the county in which said property is located, a notice of said lien;

4. The register of deeds of each county shall prepare and keep in his office a book known as "Index of Tax Liens", so ruled as to show in appropriate columns the following data, under the names of taxpayers, arranged alphabetically:

- a. The name of the taxpayer;
- b. The name "State of North Dakota" as claimant;
- c. Time notice of lien was received;
- d. Date of notice;
- e. Amount of lien then due; and
- f. When satisfied.

The register of deeds shall endorse on each notice of lien the day, hour and minute when received and preserve the same, and forthwith shall index said notice in said index book and forthwith shall record said lien in the manner provided for recording real estate mortgages, and the said lien shall be effective from the time of the indexing thereof;

5. The tax commissioner shall be exempt from the payment of the recording and filing fees as otherwise provided by law for the recording and filing of such lien, or for the satisfaction thereof;

6. Upon the payment of a tax as to which the tax commissioner has filed notice with the register of deeds, the tax commissioner forthwith shall file with said register of deeds a satisfaction of said tax and the register of deeds shall enter said satisfaction on the notice on file in his office and indicate said fact on the index aforesaid;

7. The attorney general, upon the request of the tax commissioner, shall bring an action at law or in equity, as the facts may justify, without bond to enforce payment of any taxes and any penalties, or to foreclose the lien therefor in the manner provided for mortgages on real or personal property, and in such action he shall have the assistance of the state's attorney of the county in which the action is pending;

8. It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the tax commissioner or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law;

9. The technical, legal requirements outlined in this section relating to tax liens on all real and personal property of the taxpayer to insure payment of the taxes, including penalties, interest and other costs, are self-explanatory.

SECTION 12. PERMITS—APPLICATION FEE FOR RE-ISSUANCE.) 1. No person shall engage in or transact business as a retailer within this state unless a permit or permits shall have been issued to him as hereinafter prescribed. Every person desiring to engage in or conduct business as a retailer within this state shall file with the commissioner an application for a permit or permits. Every application for such a permit shall be made upon a form prescribed by the commissioner and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the commissioner may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner thereof; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority;

2. Upon determining that each applicant for a sales tax permit is a bona fide retailer the commissioner shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which 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 required by this section; for the purposes of this sentence the term "transient merchant" shall include any person, individual, co-partnership, or corporation, either as principal or agent, who solicits, engages in, does, or transacts any temporary or transient business in this state,

either in one locality, or in traveling from place to place in this 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 case or sample case of any kind for the exhibition and sale of such goods, wares, and merchandise;

3. Permits issued under the provisions of this section shall be valid and effective until revoked by the commissioner;

4. Whenever the holder of a permit fails to comply with any of the provisions of this chapter or any rules or regulations prescribed by the commissioner and adopted under this Act, or whenever the holder of a permit shall file returns showing no tax due for four consecutive quarters, the commissioner upon hearing after giving ten days' notice of the time and place of the hearing to show cause why his permit should not be revoked, may revoke the permit. The commissioner also shall have the power to restore licenses after such revocation;

5. The commissioner shall charge a fee of five dollars for the issuance of a permit to a retailer whose permit has been previously revoked; and

6. All permits in effect at the time this Act takes effect are hereby continued and shall remain in full force and effect unless revoked as herein provided; provided that the commissioner may issue a new form of permit to replace, at no charge to the permit holders, all permits previously granted and issued that have not been revoked or surrendered.

SECTION 13. FAILURE TO FILE RETURN—INCORRECT RETURN.) If a return required by this Act is not filed, or if a return when filed is incorrect or insufficient the commissioner shall determine the amount of tax due from such information as he may be able to obtain, and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by him, his stock on hand, and other factors. The commissioner shall give notice of such determination to the person liable for the tax. Such determination shall fix the tax finally and irrevocably unless the person against whom it is assessed, within fifteen days after the giving of notice of such determination, shall apply to the commissioner for a hearing or unless the commissioner of his own motion shall reduce the same. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the commissioner shall give notice of his decision to the person liable for the tax.

SECTION 14. APPEALS.) 1. An appeal may be taken by the taxpayer to the district court of the county in which he resides, or in which his principal place of business is located, within thirty days after he shall have received notice from the commissioner of his determination as provided for in section 13 of this Act;

2. The appeal shall be taken by a written notice to the commissioner and served as an original notice. When said notice is so served it shall be filed with the return thereon in the office of the clerk of said district court, and docketed as other cases, with the taxpayer as plaintiff and the commissioner as defendant. The plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by such clerk, in penalty at least double the amount of tax appealed from and in no case shall the bond be less than fifty dollars, conditioned that the plaintiff shall perform the orders of the court; and

3. The court shall hear the appeal in equity and determine anew all questions submitted to it on appeal from the determination of the commissioner. The court shall render its decree thereon and a certified copy of said decree shall be filed by the clerk of said court

with the commissioner who shall then correct the assessment in accordance with said decree. An appeal may be taken by the taxpayer or the commissioner to the supreme court of this state in the same manner that appeals are taken in suits in equity, irrespective of the amount involved.

SECTION 15. SERVICE OF NOTICE.) 1. Any notice, except notice of appeals, authorized or required under the provisions of this Act may be given by mailing the same to the person for whom it is intended by registered or certified mail addressed to such person at the address given in the last return filed by him pursuant to the provisions of this Act, or if no return has been filed, then such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this Act by giving of notice shall commence to run from the date of registration and posting of such notice;

2. If any tax imposed by this Act or by chapter 57-40 of the North Dakota Century Code remains unpaid, a proceeding in court for the collection of such tax may be begun at any time within six years after the due date of such tax; provided that no limitation of time to collect such tax shall apply if the failure to pay such tax was due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax. The limitations provided by this Act in regard to a commencement of court proceedings shall not apply to any assessment of tax made by the tax commissioner prior to July 1, 1963.

SECTION 16. PENALTIES, OFFENSES.) 1. Any person failing to file a return or corrected return or to pay any tax within the time required by this Act shall be subject to a penalty of five percent of the amount of tax due or of 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, if satisfied that the delay was excusable, may remit all or any part of the five dollar or five percent penalty, whichever was imposed. Such penalty shall be paid to the commissioner and disposed of in the same manner as other receipts under this Act. Unpaid penalties may be enforced in the same manner as the tax imposed by this Act;

2. Any person who shall sell tangible personal property, tickets or admissions to places of amusement, and athletic events, or steam, gas, water, electricity and communication service at retail in this state after his license shall have been revoked, or without procuring a license within sixty days after the effective date of this Act, as provided in section 12 of this Act, or who shall violate the provisions of section 7 of this Act, and the officers of any corporation who shall so act, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment, in the discretion of the court;

3. Any person required to make, render, sign or verify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the assessment required by law to be made, shall be guilty of a misdemeanor and, for each such offense, shall be fined not to exceed five hundred dollars or shall be imprisoned in the county jail not exceeding one year, or shall be subject to both a fine and imprisonment, in the discretion of the court;

4. The certificate of the commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this Act, shall be prima facie evidence thereof;

5. Any person failing to comply with any of the provisions of this Act, or failing to remit within the time herein provided to the state the tax due on any sale or purchase of tangible personal property subject to said sales tax, shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months or by a fine of not exceeding five hundred dollars, or by both such fine and imprisonment, in the discretion of the court. This criminal liability shall be culmative and in addition to the civil liability for penalties hereinbefore provided.

SECTION 17. TAX COMMISSIONER TO ADMINISTER ACT.) The tax commissioner is hereby charged with the administration of this Act and the taxes imposed thereby. Such commissioner may prescribe all rules and regulations not inconsistent with the provisions of this Act, necessary and advisable for its detailed administration and to effectuate the purposes, including the right to provide for the issuance and sale by the state of coupons covering the amount of tax or taxes to be paid under this Act, if such method is deemed advisable by said commissioner.

SECTION 18. TAX, PENALTIES AND OTHER CHARGES PAID TO COMMISSIONER — DISPOSITION.) All fees, taxes, penalties and other charges imposed and collected under this Act shall be paid to the commissioner in the form of a remittance payable to the commissioner who shall transmit each payment monthly to the state treasury to be deposited in the state treasury to the credit of the general fund.

SECTION 19. GENERAL POWERS.) 1. The commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income and receipts of any taxpayer, shall have power to examine or cause to be examined by any agent or representative designated by him, books, papers, records, or memoranda; to require by subpoena the attendance and testimony of witnesses; to issue and sign subpoenas; to administer oaths; to examine witnesses and receive evidence; to compel witnesses to produce for examination books, papers, records, and documents relating to any matter which he shall have the authority to investigate or determine;

2. Where the commissioner finds the taxpayer has made a fraudulent return, the costs of said hearing shall be taxed to the taxpayer. In all other cases the cost shall be paid by the state;

3. The fees and mileage to be paid witnesses and taxed as costs shall be the same as prescribed by law in proceedings in the district court of this state in civil cases. All costs shall be taxed in the manner provided by law in proceedings in civil cases. Where the costs are taxed to the taxpayer, they shall be added to the taxes assessed against said taxpayer and shall be collected in the same manner. Costs taxed to the state shall be certified by the commissioner to the state treasurer, who shall issue warrants for the amount of said costs;

4 In cases of disobedience to a subpoena the commissioner may invoke the aid of any court of competent jurisdiction in requiring the attendance and testimony of witnesses and production of records, books, papers, and documents, and such court may issue an order requiring the person to appear before the commissioner and give evidence or produce records, books, papers, and documents, as the case may be, and any failure to obey such order of court may be punished by the court as contempt thereof;

5. Testimony on hearings before the commissioner may be taken by a deposition as in civil cases, and any person may be compelled to appear and depose in the same manner as witnesses may be compelled to appear and testify as hereinbefore provided.

SECTION 20. COMMISSIONER MAY APPOINT AGENTS AND EMPLOYEES — COMPENSATION — BOND.) 1. The commissioner may appoint such agents, auditors, clerks and employees as he may deem necessary, fix their salaries and compensation and prescribe their duties and powers, and may remove such persons so appointed by him. Each auditor appointed by the commissioner shall have had at least three years' experience, or the educational equivalent thereof, in the auditing and checking of books of account;

2. All such agents and employees shall be allowed such reasonable and other necessary traveling expenses as may be incurred in the performance of their duties not to exceed, however, such amounts as are now or may hereafter be fixed by law;

3. The commissioner may require such of the officers, agents, and employees as he may designate to give bond for the faithful performance of the duties in such sum and such sureties as he may determine and the state shall pay the premiums on such bonds;

4. The commissioner may utilize the office of the treasurer of the various counties in order to administer this Act and effectuate its purposes and may appoint the treasurers of the various counties his agents to collect any or all of the taxes imposed by this Act. No additional compensation shall be paid to said treasurer by reason thereof.

SECTION 21. INFORMATION DEEMED CONFIDENTIAL — PENALTY.) It shall be unlawful for the commissioner, or any person having an administrative duty under this Act, to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any person or corporation visited or examined in the discharge of official duty, or the amount or sources of income, profits, losses, expenditures or any particulars thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract of particulars thereof to be seen or examined by any person except as provided by law. The commissioner may authorize examination of such returns by other state officers, or, if a reciprocal arrangement exists, by tax officers of another state, or the federal government. Any person violating the provisions of this section shall be guilty of a misdemeanor and punishable by a fine of not to exceed one thousand dollars.

SECTION 22. CORRECTION OF ERRORS.) If it shall appear that, as a result of a mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of this Act, then such amount shall be credited against any tax due, or to become due, under this Act from the person who made the erroneous payment, or such amount shall be refunded to such person by the commissioner.

SECTION 23. PAYMENT OF REFUND.) Wherever by any provisions of this Act a refund is authorized, the commissioner shall certify the amount of the refund, the reason therefor and the name of the payee to the department of accounts and purchases, who shall thereupon draw a warrant on the general fund in the amount specified payable to the named payee.

SECTION 24. ALLOCATION OF REVENUE.) All moneys collected and received under this Act shall be paid into the state treasury and shall be credited by the state treasurer to the general fund. Moneys deposited with the tax commissioner as security for the payment of tax, penalties or costs due shall be deposited and accounted for as provided in subsection 3 of section 10.

SECTION 25. EFFECT ON EXISTING LAWS.) The provisions of this Act shall be construed as superseding the provisions of chapter 57-39 of the North Dakota Century Code during such time

as specified in section 26 of this Act. Any reference in the North Dakota Century Code to chapter 57-39 or any part of such chapter, shall be construed as a reference to this Act, or the applicable section of this Act, during such time as this Act remains in effect.

SECTION 26. EFFECTIVE DATE.) The provisions of this Act shall remain in effect until the following events occur:

1. In the event House Bill No. 698 of the Thirty-Ninth Regular Session, also known as chapter 386 of the 1965 Session Laws, shall be referred and approved by the electorate at any election held prior to December 31, 1965, then, and in that event, upon the date House Bill No. 698 shall become effective, the tax imposed by this Act shall cease, and this Act shall become inoperative except as to tax liabilities incurred prior to the date of its expiration; or
2. In the event a sales tax Act of two and one-quarter percent or more upon the gross receipts of retailers is submitted to and adopted by the electorate at any election held prior to December 31, 1965, then, and in such event, upon the date such an initiated sales tax Act shall become effective, the tax imposed by this Act shall become inoperative except as to tax liabilities incurred prior to the date of its expiration.
3. In any event the provisions of the Act shall not remain in effect beyond the thirty-first day of December, 1965."

DONNELL HAUGEN, Chief Clerk

COMMUNICATION

The following communication was presented by the Lieutenant Governor:

STATE OF NORTH DAKOTA

Executive Office
Bismarck

June 21, 1965

The Honorable Charles Tighe
President of the Senate
North Dakota Senate
Bismarck, North Dakota

Dear Lieutenant Governor Tighe:

I send my personal greetings to all members of the Senate. I am enclosing a message to the legislature concerning the purpose for calling the present extraordinary session. I am requesting that you read the enclosed message to the Senate at the first convenient opportunity. This message, which is supplemental to the message given to the joint session on June 14, is for the purpose of more clearly defining the primary reason for the present extraordinary session.

Respectfully yours
WILLIAM L. GUY
Governor

STATE OF NORTH DAKOTA

Executive Office
Bismarck

William L. Guy
Governor

June 21, 1965

SPECIAL MESSAGE TO THE EXTRAORDINARY SESSION OF THE 39th LEGISLATIVE ASSEMBLY

The Honorable Charles Tighe
President of the Senate
Bismarck, North Dakota

Dear Mr. President:

Our system of government in America is our pride and joy. We

hope that each generation of Americans can see our system of government work in such a way that they will be willing to lay down their lives defending it, if this is necessary. Our system of government is a democracy in which the majority rules, with the minority's right of criticism ever respected.

Our democracy is divided into three separate branches. These three branches are elected by the people in a democratic process in which the majority prevails. These three branches of government are interdependent, yet entirely separate in their function and responsibility. The Federal and State Constitutions form the basis for the laws under which all three branches operate.

Last fall, various members of all three branches of government were elected. That election was the most recent test of the will of the voting public. In that election, the present state administration was given the four-year responsibility to administer the services and laws of North Dakota. This administration is given even more responsibility. Section 75 of the North Dakota Constitution states that "(the Governor) shall have the power to convene the legislative assembly on extraordinary occasions. He shall at the commencement of each session communicate to the legislative assembly, by message, information of the condition of the state and recommend such measures as he shall deem expedient."

In the last general election, all of you in the House of Representatives and half of you in the Senate won your seat in this legislative assembly. In the last session which adjourned sine die on the calendar day of March 12, 1965, you passed a very full and admirable program of legislation. Included in this legislation which, by majority rule, you passed was a sweeping tax reform and revenue bill numbered House Bill 698. When I signed House Bill 698 on March 19, 1965, it became law in North Dakota.

It is still the law of this state, even though on June 9, 1965, its effective date was suspended by referral action.

At the moment House Bill 698 was suspended by referral action, the administration was faced with an administrative problem. The administrative problem was to decide how best to continue tax revenue collections until a special referral election could be held. This administrative task of tax revenue collections caused by the referral of House Bill 698 required that a method be sought in order that collection losses be minimized, confusion to taxpayers and tax collectors be prevented, and that tax lawsuits and tax refunds be avoided.

The alternate courses which the administration might follow all presented problems of their own. However, I emphasize at this point that the decisions to be made had to be administrative decisions. I could allow the use tax to be regarded as a substitute for the 2¼% sales tax suspended on July 1, 1965, by referral of House Bill 698. This plan had obvious shortcomings. A legal question as to whether the use tax could be used in place of the sales tax, or whether the use tax was in fact only supplementary to the very sales tax which would expire on July 1, 1965, has not been tested in court. Only the North Dakota Supreme Court can finally answer this question.

A test suit apparently cannot be started until the attempt to substitute the use tax for the sales tax might become a reality on July 1, 1965. If a test suit is not begun on July 1, 1965, or soon thereafter, each passing day would pose a greater threat that some day the law would be challenged when the resulting confusion and refunding between customer and retailer and the Tax Department would reach chaotic and expensive proportions.

The unwarranted burden that the use tax would place on the purchaser of equipment, machinery, trucks and autos would be

frustrating to seller and purchaser alike, for the 2¼% use tax under the law would be collected against the full retail selling price with no credit given for trade-in allowances. The use tax might, if the Supreme Court so ruled, cover some of the transactions now taxed by sales taxes, but the use tax could not apply, under any conditions, to such transactions as theatre admissions, telephone, hotel, motel, and such services extended to by the 1963 session. Use taxes from motor vehicles and mobile homes would be shared by the state and political subdivisions.

Other serious consequences of a failure to extend a temporary sales tax measure would certainly include:

- 1.) North Dakota merchants would be prevented from granting tax exemption to non-residents purchasing here.
- 2.) Livestock and poultry feed would not gain exemption from tax.
- 3.) All dealers of autos, heavy equipment, farm machinery, and mobile homes selling on installment basis would be taxed even on losses from repossession.

Should the North Dakota Supreme Court rule that the use tax could not be substituted for all or part of the suspended sales tax, a serious loss of tax revenue would result.

Clearly, an administrative decision to seek a solution to the losses from the suspended sales tax by attempting to adapt the use tax to the situation poses such serious questions that it cannot rank well as a solution. However, it can and will be attempted if this becomes necessary.

A second solution to the administration tax problem was to call the legislative assembly into extraordinary session and request that they supply a temporary administrative tool with which to prevent tax revenue losses during the period of sales tax suspension. I sought the advice of legislative leaders from both the House and the Senate on the matter. I was grateful for their concern over our administrative problem.

It is at this point that I wish to respectfully stress this observation. We need to observe shadings between administrative and legislative responsibility. Last winter, in a regularly convened legislative session, you carried out your legislative responsibility extremely well. Your legislative responsibility to enact permanent legislation will again be called upon in regular session in 1967. Once permanent legislation is passed, the responsibility shifts to the administration to see that that legislation is implemented and carried out according to majority legislative decision. This, our administration is sincerely doing. In the intervening months, most of your legislation will receive the test and trial that comes from implementation. I sincerely hope that your tax program passed by you in your last session will receive such a fair trial.

However, it is now suspended by referral until such time as the voting public can make its wishes known. Until the voting public makes its wishes known, no further permanent tax legislation is required, nor could it be passed lest it appear to flaunt the Constitution in the face of the referral action. If the voting public votes down House Bill 698, the responsibility would then shift from the administrative responsibility of coping with a referral action, to a legislative responsibility to fill the nearly total void in permanent tax legislation, in a second extraordinary session.

This administration had no responsibility for the tax referral. However, the tax referral does pose problems for this administration which must be met. I have asked you to supply an administrative tool. This was my sole purpose in calling you into extraordinary session.

When I asked you, in my opening message to this session, to extend the present 2¼% sales tax on its present base for another temporary period of six months, I was making an administrative request for a specific administrative tool. There will be those who will disagree with my choice of tools, but as long as I was elected to this responsibility of administration, I cannot shift the burden of administrative decision. In the sound tradition of our system of government, those decisions become the record upon which an administration must rise or fall. I ask you to regard my call of this extraordinary session as an administrative decision and not a legislative decision. I ask that you regard my request for temporary tax legislation as my request for an administrative tool to meet an administrative emergency problem rather than a permanent legislative problem.

The democratic process of government, with its checks and balances, is a wonderful instrument. If you and I shoulder those responsibilities assigned us under the Constitution, we can make this system of government work for our state in such a way that it hastens progress. Our fellow citizens want it that way.

Respectfully yours,
WILLIAM L. GUY
Governor

PERSONAL PRIVILEGE

Senator Holand: Mr. President. I rise on a point of personal privilege and request that my remarks be printed in the Journal.

Mr. President, and Members of the Senate, there is a great deal of public criticism of the legislature over what is regarded generally as a lot of political wrangling at taxpayers' expense. I would like at this time to define the issues and state the Republican position for the record.

We are here to extend the present 2¼% sales tax. There is at this time no issue about a 3% sales tax, or about any other new tax proposals.

The 3% sales tax which was included in the so-called Democrat Tax Package passed by the last legislature was to have taken effect on July 1, 1965, but when the tax package was referred by petition to the people all of its parts were suspended from going into operation until after the election, which the Governor has called for September 21st. This means that as of July 1, 1965, the state would be without a sales tax as such at least until after that election, unless the legislature were to enact something to operate in the meantime.

The Attorney General has said that the "use tax" now on the records would, in effect, serve as a means of collecting the sales tax during this interim period. He may be correct in his interpretation of the law, but of course can not assure us that this interpretation is free from court attack. Since millions of dollars are involved — affecting education at all levels as well as other functions of state government — the Governor saw fit to call this special session for the purpose of reenacting the 2¼% sales tax until the tax package issue is finally settled. Some of us agreed with him in this action. Others did not.

The question then is for how long a period should the 2¼% sales tax be extended? Last Tuesday the Governor stated that the issue over the date was not important enough to delay the legislature. Since then he has changed his position and now insists that it must not go beyond December 31, 1965. We all agree that the extended sales tax would be automatically terminated if the tax package carries in the special election in September.

But we Republicans feel that the termination date is important. With the increase in income that the state is now experiencing there is at least some possibility that all of the financial commitments of

the state can be met for the next two years under the 2¼% sales tax, even if the Democrat Tax Package should fail in the special election. If the legislature places a deadline on the extension which is anything short of June 30, 1967, we will be forcing another special legislative session. If the deadline is December 31, 1965, it would automatically force a special session again this year for the purpose of enacting new taxes. We Republicans believe this is not good planning. No one knows just what our cash balances will be, and no one knows just what crops we will have. We do know from recent experience that estimates of state income can vary greatly, so why should we now pass a law which would require the legislature to meet again in special session regardless of the financial conditions, should the tax package fail by a vote of the people? Should it develop that the tax package fails and that there does not seem to be enough money to carry out the commitments of the state the Governor can always call a special legislative session to handle the situation.

Now, there is a lot of politics mixed up in this mess, and we might as well admit it. There is no question that it would be easier for the supporters of the tax package to sell it to the voters if they could say, "Either you support the tax package, or you will be forcing a special session of the legislature". We don't blame them for wanting to use this argument, especially in view of the confusion and friction that has developed in this session. On the other hand, we Republicans believe that the tax package should be accepted or rejected by the voters on its own merits or demerits, without the threat of an automatic special legislative session as a side issue.

Speaking of politics, in my judgment Mr. McCarney was not serving the best interests of the people of North Dakota when he delayed filing his petitions to the last possible moment. The fate of the tax package could have been determined by the voters long before this had he acted promptly instead of trying to tie his own tax ideas in with the election by initiated measures.

Neither is the Governor without blame in this situation. What logical reasons he can give for delaying the election on the tax package to September 21st is beyond me, unless the added time will give him and Mr. Omdahl further opportunity to propagandize the educators of the state with information based upon the false premise that the appropriations made for education in the last session are dependent upon the tax package. The special election could have been and should have been held early in July.

Some pretty careless accusations were thrown about last week by the Governor and others concerning a pre-session agreement that we Republican leaders were supposed to have made about a December 31st deadline. This too was politics, pure and simple, but I appreciate the fact that the Senate Democratic leader has straightened this out once and for all, and I shall not belabor this point further.

When the Senate passed a 2¼% sales tax bill last Wednesday evening and adjourned to Saturday I was hopeful that the House Democrats would understand that we would stand firm in our position. I saw little point in returning Saturday to learn what we already knew — that is, that they had on Thursday simply changed the deadline of our bill back to December 31st.

Today the termination date is the issue. It now appears that this date has become so important to the Governor that he is willing to risk the financial solvency of the state in order to have his way. This Special Legislative Session was his idea. If he is willing that it accomplish nothing because of the expiration date on the bill, then that is his choice.

PERSONAL PRIVILEGE

MR. LASHKOWITZ: I am at this time asking that my remarks be printed in the Journal.

First I would like to acknowledge the leadership of Governor Guy in exercising his responsibility as the Chief Executive of our State in making decisions that are within the province of his responsibility.

Now, inasmuch as all of us here have spent considerable time in the past several months, particularly during the past week, just marking time, I trust that you good gentlemen will indulge me briefly in these comments. By the way, one real standout consistent aspect, feature, of our legislative session since my arrival here as a member of this great body has been that I do not recall one session that has ever started on time. I recognize and realize that all of you are busy men with committee assignments and your studying and preparation for the legislative work and I respect that, but I think it's worthy of note in the Journal that we do not start our sessions on time and I want to share in that responsibility. In this respect, not starting on time, I make this comment: I hope by way of relieving the tension somewhat that last Saturday's historic session was a record and I'm happy to welcome our Republican friends and brethren back into this assembly after last Saturday's absence.

Like the rest of you, I'm going to do some soul searching at this time and I'm involved in some profound decision making, whether or not to return for another session. I think this is normal and natural but I admit it publicly. Like the great Sarah Bernhardt, who preceded I think all of us, but who left her lasting mark in the fine arts, I might be like some of you making several farewell appearances with perhaps public permission.

Now, may I say this, in spite of all the political activity which is part of the American way of life, I want to make it manifestly clear, I have nothing but complete respect for every member of this body and great admiration for the distinguished Lt. Governor, the President of the Senate, reserving the right to disagree at any time on matters before us. I think that what has happened over this weekend is of such a lasting significance that I would be remiss if I didn't make comment for the record. I would like to refer to one of the truly great newspapers not only of this state but of this area, a newspaper that has achieved national recognition in the form of a Pulitzer Prize, one of the most coveted awards a newspaper may receive. I quote the Fargo Sunday Forum, June 20th, 1965, Today's Editorial: "New Main Avenue Renewal Horizons Opened. New horizons for Fargo's Main Avenue Urban Renewal project were opened by the North Dakota Legislature last week. At the request of the Fargo Urban Renewal Agency, the Legislature repealed a section of the original 1955 law which limited re-use of urban renewal land." Continuing the quotation, "If Fargo" — may I insert parenthetically, I think here we are speaking about some of our very pertinent business of this session. "If Fargo is able to develop a large retail district, it will be something that has not been done in other cities. Most developers report that every time a retailer gets involved in doing over older downtown districts for modern retail centers, insurmountable obstacles develop. Somebody won't sell for any price. At this point Fargo is in a better position to keep its downtown vibrantly alive than have the other three cities we have examined. The big job of actually getting business signed up to locate in the Main Avenue area is still ahead of us."

I would also like to cite from page B-5 gentlemen. The headline, "Impressed by Fargo Projects — downtown desertions jar St. Cloud into urban renewal." Another article is headed, "New Legislation opens way for Main Avenue retail center."

Last Friday I attended a meeting of the Fargo Urban Renewal Agency. At that time I was entrusted with conveying to you the appreciation and gratitude of the Fargo Urban Renewal Agency for the acts of this legislative assembly. I'm doing that at this time.

May I also say for the record, that this legislation is something that I also join in thanking you for. You have my personal gratitude as well as official gratitude. I should also like to thank my co-sponsors from the City of Fargo in the House of Representatives for their activity and also the Democratic leadership in the House represented by Rep. Giffey and Rep. Hoffner with whom I conferred prior to this legislation being introduced in the House and enlisted their full cooperation and support. Their subsequent support was indeed helpful in this matter. I should also like to thank Senator Ringsak and his State and Federal Government Committee before whom I was privileged to appear as a principal witness in behalf of this legislation.

Now, in addition to expressing my appreciation to the gentlemen of this legislature who were involved in the matter of bringing urban renewal in its modern streamlined form to North Dakota, I would like to note the historical significance for the record of urban renewal and the shadow of events yet to unfold. May I say this ladies and gentlemen, we are recognized as a state which is rapidly becoming urbanized. Our cities in many instances were never carefully planned. In fact, many just developed at random as wayfaring stations on the western trail. Thus we see today blight, decay and erosion of our central cities, large and small, marked by a flight to the suburbs and the shopping centers. Today we find in many American communities the central business district fighting for its very survival. Urban renewal has come to be recognized as a tool in this fight for survival.

But Gentlemen, it has not always been so recognized. Some of us who have been in the midst of this fight over the years to save our cities and towns will ask that this struggle not be forgotten, not simply for memories sake but because the fight is still in progress.

And, as I rise before this legislative assembly, I also rise to thank the Congress of the United States for its farsighted vision in enacting legislation in 1949 with the leadership of both sides of the aisle being committed in this far reaching program. I also would like to acknowledge for the record the magnificent leadership of President Harry S. Truman in whose administration urban renewal had its roots and I would also like to acknowledge the continuing efforts on the part of those great Americans, Dwight Eisenhower, John F. Kennedy and now, Lyndon B. Johnson, in behalf of urban renewal. Without the support of these great Americans and also the Congress of the United States, we in Fargo could not be undertaking this program. I hope that my message will be heeded because I believe that the fight for urban renewal in many American cities, in all sectors, large and small has just begun.

It's just begun in the Congress of the United States and you gentlemen last week made a bi-partisan commitment to urban renewal and the saving of American cities and the preservation of a free enterprize system that all of us believe and subscribe to.

The reason why I stand before you at this hour is that urban renewal has become the rallying point of many extremists and even hate groups in their efforts to rally support. The literature crosses my desk weekly and I ask you, Gentlemen of the Senate, now that you have made this commitment, I know that you will recognize in the days and weeks ahead, the particular type of opposition such as the extremists, and I don't label them as in either party, and the hate groups who have no place in either party, as they try to confuse the American people regarding urban renewal. I believe that we must continue in our commitment in behalf of the bi-partisan efforts to save the central city whether they be Los Angeles, Chicago, New York, Fargo, Grand Forks or Williston.

I want to make manifestly clear that in cautioning against the

rallying cry of the extremists and hate groups who have distorted the urban renewal concept, that there is still a respectable body of opinion who must be heard on the administration of urban renewal projects in order to assure orderly, efficient and economical administration. It is ironic that a concept such as urban renewal, designed and intended to help our cities, large and small, to wage war on blight and to prevent blight should also have spawned the ugly emotions that it has. I have seen these emotions at their unprettiest and yet, now that communication is being intensified, I am pleased to note that much of this sort of thing is happily receding into history. If you know our City of Fargo in your great State, you will recognize, as many of us have, that we could not afford to mark time for another 40 years and let one of our principal streets in our city and state continue its downhill slide. I speak to you as one who has been associated with the urban renewal program from its very inception in Fargo in 1955 as the official advisor to the Fargo Urban Renewal Agency and as one who has worked on this program day in and day out, week in and week out down through the years.

I want to acknowledge my gratitude for the efforts of this legislative assembly and I want to acknowledge to the press of this state and particularly the Fargo Forum in their efforts regarding urban renewal and I want to thank the Congress of the United States, our Presidents, Truman, Eisenhower, Kennedy and Lyndon B. Johnson. May I also extend an invitation to every member of this legislative assembly to visit the City of Fargo and see for yourselves what urban renewal is if it's correctly administered.

I would also cite this in the City of Fargo's experience. We have realized the following positive gains from urban renewal as a tool.

1. We have strengthened our tax base;
2. We have eliminated costly services to certain areas;
3. We have provided employment opportunities and will continue to do so;
4. We have stimulated investment capital in the area;
5. We have stimulated improvement and upgrading of nearby areas;
6. And most importantly, we have rekindled community pride and willingness to get on with the job of building for tomorrow.

This has been the story of our civic center, urban renewal area; and will be the story in the months and years ahead in our Main Avenue urban renewal project.

To my municipal colleagues in this chamber, I can only say, stand up to the challenge of blight. At first you may not be understood but I counsel each of you, persist in your efforts because your goal is the goal of preservation and the enhancement of our communities. These are goals worthy of the test of time. This has been proven.

One of the most gratifying experiences one can have is to be able to have a former critic or even a former enemy come up to you months or years later and say, "Thank you for helping us get out of our former situation; I was in a rut and you gentlemen have helped us to see a greater opportunity".

So again, when the session adjourns, gentlemen, please accept our sincere invitation to come to Fargo. I'd be delighted to give you a personally conducted tour of our City and you can see what you have helped make possible by this intergovernmental cooperation.

Thank you so very much.

PERSONAL PRIVILEGE

Senator Sinner: Mr. President. I also rise on a point of personal privilege and ask that my remarks be printed in the Journal. I will be brief and impersonal.

First of all, Mr. President, there has been some inference — in fact a clear statement charging that the Governor's setting the date

of election was without justification. There are two reasons which I support — which I think are entirely valid for the reason for setting the date of election when it was set. The first reason is that it is incumbent upon all of us to use this time to explain to the people all that is involved in the referral question. You know and I know that two years ago when the tax package passed by the Republicans was voted on, that many, many people did not know what they voted on. Most of the responsible people on both sides of the political aisle did their best to explain and to defend their positions and the measures passed by the representative body of this democratic form of government. This is the first reason — to give responsible governmental officials time to explain and to enlighten people as to exactly what they are voting on.

The second reason is equally as valid and that is that the best possible time of the year for the most number of people to get to the polls is in late September. I don't think this needs any detailed explanation.

The second question that I think needs some answer — the second charge — is the question of the purpose of this extraordinary session of the legislature. It has been suggested by some that there are a number of problems involved in the translation of the use tax to replace the sales tax. Gentlemen, this thesis is all shot through with complications and problems that are not even begun to be thought about — that it would take the attorneys in the tax department the better part of the afternoon to even touch on them — so this session was called for the valid reason of passing emergency revenue measures. But what then is the difference in our positions? The difference is this, Gentlemen, — it is essentially the constitutional question. Spelled out in the Constitution is this clear prohibition on a legislature: "Laws may be enacted to facilitate its operation (referral is being spoken of), but no law shall be enacted to hamper, restrict or impair the exercise of the rights herein reserved to the people."

Now, Mr. President, it is the studied opinion of most attorneys that there is a large dark shadow over the enactment of legislation setting up tax revenue far beyond the referral date. Who is to say finally who is right in the controversy over this question? The simple fact is that no one can say. There has never been a case in North Dakota. The cases in other states, while in many cases are similar, are not exactly the same. But if a tax revenue passed by this session were challenged as late as January, 1966, or as late as January of 1967, this state government would be bound if the challenge were allowed in the Court, to return to all retailers the tax that it had collected.

I can't say definitely this is unconstitutional but the cloud is there and it is undeniable. If we were to accede to your date, we could not possibly help but in so doing be a party to making this cloud become a reality.

Mr. President, there are political overtones — there always are — this is the nature of the democratic representative government. But, let's not cloud the issues with personal statements of self-righteousness because the issues are real and if they have not been sufficiently clarified to the people in this body, then this body should resolve itself into a Committee of the Whole to air all the questions so that we are not running on some vague statement or insinuation by some of our people. Thank you.

PERSONAL PRIVILEGE

Senator Morgan: Mr. President. I rise on a point of personal privilege and I want my remarks recorded in the Journal.

Mr. President, Members of the Senate. The middle of last week I was told by a member of this body whom I have a great deal of

respect for — that there were insinuations going around this House that I voted for House Bill No. 698 for political purposes. May I say to you, Mr. President, and to the Members of the Senate, this is a bold-faced lie. I voted for it in all sincerity. I was just as sincere as any member of this Assembly that voted as I did, probably even more so. However, be that as it may, I want you folks to know how I felt about the tax bill. I voted for it and I do hope it carries through. I would like to see it tried out. However, that is past history. We will see what the voters do with it. Now, Mr. President, as I said I voted for the tax bill — had it not been for five Senators and myself, the tax bill would never have carried the Senate — I am talking about five Republican Senators and myself — six of us voted for 698 — for the Democrat Tax Package. May I refer to a Republican colleague of mine who came over to my desk and was very critical — he said: "You know, Morgan, this isn't a Democrat Tax Bill, it is a Republican Tax Bill and I hope you live with it." However, that is neither here nor there and the question at this time is the date. The people on the other side of the aisle, and a few over here, say that the date is the big problem and they want to compromise. I repeat to you, Mr. President, and Members of the Senate, had it not been for the six Republican Senators we would not even have had a tax bill to talk about. Thank you.

CONSIDERATION OF MESSAGE FROM THE HOUSE

Senator Holand moved that the Senate do not concur in the House amendments to Senate Bill No. 4 and that a Conference Committee be appointed, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as a Conference Committee on Senate Bill No. 4, Senators:

Holand
Becker
Van Horn

MESSAGE TO THE HOUSE

Senate Chamber

Bismarck, June 21, 1965

Mr. Speaker: I have the honor to inform you that the Senate has refused to concur in the House amendment to Senate Bill No. 4 and the President has appointed as a Conference Committee to act with a like committee from the House, Senators:

Holand
Becker
Van Horn

GERALD L. STAIR, Secretary

MESSAGE FROM THE HOUSE

House Chamber

Bismarck, June 21, 1965

Mr. President: I have the honor to transmit:

House Bills Nos. 503 - 505 - 506 - 507

Which the Speaker has signed and your signature is respectfully requested.

DONNELL HAUGEN, Chief Clerk

SIGNING OF BILLS

The Secretary announced that the President was about to sign: House Bills Nos. 503, 505, 506, 507

And the President signed the same in the presence of the Senate.

MESSAGE TO THE HOUSE

Senate Chamber
Bismarck, June 21, 1965

Mr. Speaker: I have the honor to return:

House Bills Nos. 503 - 505 - 506 - 507

Which the President has signed.

GERALD L. STAIR, Secretary

REPORT OF STANDING COMMITTEES

The Committee on Enrollment and Engrossment respectfully reports that:

Senate Resolution No. 1

Was delivered to the Secretary of State.

SENATOR BECK, Chairman

MESSAGE FROM THE HOUSE

House Chamber
Bismarck, June 21, 1965

Mr. President: I have the honor to return:

Senate Bills Nos. 5 - 6 - 9

Senate Concurrent Resolution "B"

Which the Speaker has signed.

DONNELL HAUGEN, Chief Clerk

Senator Holand moved that the Senate recess subject to the call of the chair, which motion prevailed.

The Senate reconvened pursuant to recess taken, the President presiding.

MESSAGES FROM THE HOUSE

House Chamber
Bismarck, June 21, 1965

Mr. President: I have the honor to return:

Senate Bill No. 10

Which the House has passed unchanged.

DONNELL HAUGEN, Chief Clerk

House Chamber
Bismarck, June 21, 1965

Mr. President: I have the honor to inform you that the Speaker has appointed as a Conference Committee to act with a like committee from the Senate, Representatives:

Backes

Meschke

Boustead

To act on Senate Bill No. 4.

DONNELL HAUGEN, Chief Clerk

REPORT OF STANDING COMMITTEES

The Committee on Enrollment and Engrossment respectfully reports that:

Senate Bills Nos. 5 - 6 - 9

Were delivered to the Governor for his approval at the hour of 5:00 o'clock p.m., June 21, 1965.

SENATOR BECK, Chairman

The Committee on Enrollment and Engrossment respectfully reports that:

Senate Concurrent Resolution "B"

Was delivered to the Secretary of State at 5:00 p.m., June 21, 1965.

SENATOR BECK, Chairman

MESSAGE FROM THE HOUSE

House Chamber
Bismarck, June 21, 1965

Mr. President: I have the honor to return:

Senate Concurrent Resolution "A"

Which the House has indefinitely postponed.

DONNELL HAUGEN, Chief Clerk

Senator Holand moved that the Senate recess subject to the Call of the Chair, which motion prevailed.

The Senate reconvened pursuant to recess taken, the President presiding.

MESSAGE FROM THE HOUSE

House Chamber
Bismarck, June 21, 1965

Mr. President: I have the honor to inform you that the House has rejected the Conference Committee report recommending that Senate Bill No. 4 be laid on the table, and the Speaker has appointed as a new Conference Committee to act with a like committee from the Senate, Representatives:

Hoffner

Lundene

Knudsen

On Senate Bill No. 4.

DONNELL HAUGEN, Chief Clerk

REPORT OF A SELECT COMMITTEE

Mr. President: Your Conference Committee to whom was referred Senate Bill No. 4 has had the same under consideration and recommends:

That the Conference Committee be dissolved and that further consideration on Senate Bill No. 4 be laid on the table.

For the Senate:

Senator Holand

Senator Becker

Senator Van Horn

For the House:

Rep. Meschke

Rep. Backes

Rep. Boustead

Senator Van Horn moved that the report be adopted.

Senator Longmire made the substitute motion that the Conference Committee report be not accepted and that a new Conference Committee be appointed, which motion prevailed.

The President appointed as a new Conference Committee on Senate Bill No. 4, Senators:

Holand

Becker

Van Horn

MESSAGE TO THE HOUSE

Senate Chamber
Bismarck, June 21, 1965

Mr. Speaker: I have the honor to inform you that the Senate has refused to accept the Conference Committee report on Senate Bill No. 4 and the President has appointed as a new Conference Committee to act with a like committee from the House, Senators:

Holand

Becker

Van Horn

GERALD L. STAIR, Secretary

Senator Holand moved that the Senate recess subject to the call of the chair, which motion prevailed.

The Senate reconvened pursuant to recess taken, the President presiding.

REPORT OF STANDING COMMITTEE

Mr. President: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bill:

Senate Bill No. 10

And find the same correctly Enrolled.

SENATOR BECK, Chairman

Senator Beck moved that the report be adopted, which motion prevailed.

SIGNING OF BILLS

The Secretary announced that the President was about to sign Senate Bill No. 10

And the President signed the same in the presence of the Senate.

MESSAGE TO THE HOUSE

Senate Chamber

Bismarck, June 21, 1965

Mr. Speaker: I have the honor to transmit:

Senate Bill No. 10

Which the President has signed and your signature is respectfully requested.

GERALD L. STAIR, Secretary

REPORT OF SELECT COMMITTEES

Mr. President: Your Conference Committee to whom was referred Senate Bill No. 4 has had the same under consideration and recommends that the Conference Committee be dissolved and a new Conference Committee be appointed.

For the Senate:

Senator Holand
Senator Becker
Senator Van Horn

For the House:

Rep. Hoffner
Rep. Lundene
Rep. Knudsen

Senator Holand moved that the report be adopted.

Senator Reichert made the substitute motion that the Senate do concur in the House amendments to Senate Bill No. 4, which motion was declared lost.

Senator Van Horn requested a recorded vote, which request was granted.

ROLL CALL

The question being on the motion of Senator Reichert the roll was called and there were ayes, 18; nays, 26; absent and not voting, 5.

Those voting in the affirmative were:

Berube	Larson	Sinner	Van Horn
Bopp	Lashkowitz	Solberg	Walz
Ecker	Rait	Thompson	Weber
Jurgensen	Reichert	Urdahl	Witteman
Kadlec	Rolfsrud		

Those voting in the negative were:

Baeverstad	Holand	Luick	Ruemmele
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Beck	Kautzmann	Morgan	Saumur
Becker	Kelly	Nelson	Sorlie
Dahlund	Kisse	Redlin	Strinden
Forkner	Kjos	Ringsak	Torgerson
George	Lips	Roen	Trenbeath
Hernett	Longmire		

Absent and not voting:

Chesrown	Mutch	Robinson	Tuff
Mahoney			

So the motion was declared lost.

The question being on the motion of Senator Holand, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as a Conference Committee on Senate Bill No. 4, Senators:

Longmire
Torgerson
Thompson

MESSAGE TO THE HOUSE

Senate Chamber

Bismarck, June 21, 1965

Mr. Speaker: I have the honor to inform you that the Senate has adopted the Conference Committee report on Senate Bill No. 4 and the President has appointed as a new Conference Committee to act with a like committee from the House, Senators:

Longmire
Torgerson
Thompson

GERALD L. STAIR, Secretary

MESSAGE FROM THE HOUSE

House Chamber

Bismarck, June 21, 1965

Mr. President: I have the honor to inform you that the House has adopted the Conference Committee report on Senate Bill No. 4 and the Speaker has appointed as a new Conference Committee to act with a like committee from the Senate, Representatives:

Lundene
Obie
Johnson of Barnes

DONNELL HAUGEN, Chief Clerk

Senator Holand moved that the Senate recess subject to the Call of the Chair, which motion prevailed.

The Senate reconvened pursuant to recess taken, the President presiding.

MESSAGE FROM THE HOUSE

House Chamber

Bismarck, June 21, 1965

Mr. President: I have the honor to return:

Senate Bill No. 10

Which the Speaker has signed.

DONNELL HAUGEN, Chief Clerk

FIRST READING OF A SENATE MEMORIAL RESOLUTION

Senators Holand, Lips and Reichert introduced:

Senate Memorial Resolution No. 1. A memorial resolution in memory of Mrs. A. G. Sorlie.

Was read the first time.

MOTION

Senator Holand moved that the rules be suspended and that Senate Memorial Resolution No. 1 be printed in the Journal and not as a bill, and placed on second reading and final passage, which motion prevailed.

SENATE MEMORIAL RESOLUTION No. 1

Introduced by Senators Holand, Lips, Reichert

MRS. A. G. SORLIE

A memorial resolution in memory of Mrs. A. G. Sorlie

1 WHEREAS, Almighty God in His infinite
2 wisdom, has called from our midst a friend and an
3 outstanding citizen of North Dakota, Mrs. A. G. Sorlie;
4 and

5 WHEREAS, Mrs. A. G. Sorlie was the widow of the
6 late governor, Arthur G. Sorlie, who served as governor
7 of the state of North Dakota from January 1925 until
8 his death in August of 1928; and

9 WHEREAS, her dedication to her husband,
10 to the people of this state, and to our system of
11 government has set an example for all citizens;

12 NOW, THEREFORE, BE IT RESOLVED BY THE
13 SENATE OF THE EXTRAORDINARY SESSION OF THE
14 THIRTY-NINTH LEGISLATIVE ASSEMBLY OF THE
15 STATE OF NORTH DAKOTA:

16 That on behalf of the citizens of this state,
17 the Legislative Assembly expresses its deepest apprecia-
18 tion for the dedication and services rendered in so many
19 ways by Mrs. A. G. Sorlie, and that we express our heart-
20 felt sympathy to her children, relatives, and close
21 friends; and

22 BE IT FURTHER RESOLVED, that this resolution
23 be entered in the Journal and the Secretary of State is
24 hereby directed to forward a properly enrolled copy of
25 this resolution to her son, Mr. A. Glenn Sorlie, and
26 to her daughters, Mrs. Dale V. Ness and Mrs. Ruth Sorlie Edick.

SECOND READING OF A SENATE MEMORIAL RESOLUTION

Senate Memorial Resolution No. 1. A memorial resolution in memory of Mrs. A. G. Sorlie.

Was read the second time.

Senator Holand moved that Senate Memorial Resolution No. 1 be adopted, which motion prevailed.

MOTION

Senator Longmire moved that the Senate express their sincere appreciation to Miss Kay Peters and Mr. John Quanrud for the very excellent manner in which they have served the Senate as pages to this late hour, which motion prevailed.

REPORT OF A SELECT COMMITTEE

Mr. Speaker: Your Conference Committee to whom was referred Senate Bill No. 4 has had the same under consideration and recommends:

That, as the Conference Committee has been unable to agree, the committee be discharged.

For the Senate:

Senator Longmire
Senator Torgerson
Senator Thompson

For the House:

Rep. Lundene
Rep. Obie
Rep. Johnson of Barnes

Senator Longmire moved that the report be adopted, which motion prevailed.

MOTION

Senator Holand moved that the Senate dispatch a message to the House of Representatives requesting permission of that body for the Senate to adjourn sine die, which motion prevailed.

MESSAGE TO THE HOUSE

Senate Chamber

Bismarck, June 21, 1965

Mr. Speaker: I have the honor to request leave of the House for the Senate to adjourn sine die.

GERALD L. STAIR, Secretary

MESSAGE FROM THE HOUSE

House Chamber

Bismarck, June 21, 1965

Mr. President: I have the honor to inform you that the House has requested the consent of the Senate to adjourn sine die.

DONNELL HAUGEN, Chief Clerk

MOTION

Senator Holand moved that the Senate accede to the request of the House to adjourn sine die, which motion prevailed.

MESSAGE TO THE HOUSE

Senate Chamber

Bismarck, June 21, 1965

Mr. Speaker: I have the honor to inform you that the Senate grants the House of Representatives request to adjourn sine die.

GERALD L. STAIR, Secretary

MESSAGE TO THE SENATE

House Chamber

Bismarck, June 21, 1965

Mr. President: I have the honor to inform you that the House has agreed to the Senate's request to adjourn sine die.

DONNELL HAUGEN, Chief Clerk

Senator Holand moved that after the completion of the fifteenth and sixteenth order of business that the Senate adjourn sine die, which motion prevailed.

REPORTS OF A STANDING COMMITTEE

The Committee on Enrollment and Engrossment respectfully reports that:

Senate Bill No. 10

Was delivered to the Governor for his approval.

SENATOR BECK, Chairman

Mr. President: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bills:

Senate Memorial Resolution No. 1

And find the same correctly enrolled.

SENATOR BECK, Chairman

Senator Beck moved that the report be adopted, which motion prevailed.

SIGNING OF BILLS

The Secretary announced that the President was about to sign:

Senate Memorial Resolution No. 1

And the President signed the same in the presence of the Senate.

REPORT OF A STANDING COMMITTEE

The Committee on Enrollment and Engrossment respectfully reports that:

Senate Memorial Resolution No. 1

Was delivered to the Secretary of State.

SENATOR BECK, Chairman

And the Senate stood adjourned pursuant to the motion of Senator Holand.

GERALD L. STAIR, Secretary

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- Committees other than Standing, 6, 7 (2).
- Senate Bills, 8.
- Conference Committees, 85.
- Conference Committee reports, 86.
- Motions, 7, 56, 83, 86, 87.

LUICK

- Senate Bills, 9.
- Committee reports, 15.
- Motions, 16.

MORGAN

- Committees other than Standing, 6.
- Remarks, 80.

MUTCH

- Senate Concurrent Resolutions, 8, 9.
- Committee reports, 42.
- Motions, 10, 42.

NELSON

- Senate Concurrent Resolution, 8.
- Motions, 16.

REICHERT

- Committees other than Standing, 6, 7.
- Senate Bills, 7, 8.
- Motions, 9, 58, 84.
- Remarks, 43.

RINGSAK

- Senate Bills, 7.
- Senate Concurrent Resolutions, 8, 9.
- Committee reports, 9, 10 (2), 11 (2), 15 (4), 23 (5), 24.
- Remarks, 21.
- Motions, 9, 10 (2), 11, 12, 15 (4), 16 (2), 19, 23 (5), 24, 38, 57.

SINNER

- Senate Bills, 8 (2).
- Motions, 57.
- Remarks, 79.

STRINDEN

- Committees other than Standing, 6.

THOMPSON

- Conference Committees, 85.
- Conference Committee reports, 86.

TORGERSON

- Senate Concurrent Resolution, 8.
- Conference Committee, 85.
- Conference Committee reports, 86.

VAN HORN

- Committees other than Standing, 6.
- Conference Committees, 40, 42, 81, 83.
- Conference Committee reports, 41, 57, 83, 84.
- Motions, 20, 42, 83.

RECORD OF SENATE BILLS IN THE SENATE

Senate Bill No. 1—(Senator Lashkowitz)

Senate Bill No. 1. A Bill for an Act to provide for deferred payment of real and personal property taxes for persons vacating their business or living quarters because of an urban renewal project.

First reading, 7.

Referred to Committee on State and Federal Government.

Returned, indefinitely postponed, 9.

Senate Bill No. 2—(Senator Lashkowitz)

Senate Bill No. 2. A Bill for an Act to amend and reenact subsection 4 of section 40-50-06 of the North Dakota Century Code, relating to the preparation and approval of urban renewal plans for municipalities and eliminating certain requirements with regard to permitted uses on redevelopment and declaring an emergency.

First reading, 7.

Referred to Committee on State and Federal Government.

Returned, indefinitely postponed, 10.

Senate Bill No. 3—(Senator Reichert)

Senate Bill No. 3. A Bill for an Act to amend and reenact sections 28-32-15, 28-32-16, 28-32-17, 28-32-19, and 28-32-21 of the North Dakota Century Code to provide that appeals taken from a decision of an administrative agency shall be tried de novo in the district court, and to repeal section 28-32-18 of the North Dakota Century Code, relating to additional evidence to be taken by an administrative agency pending an appeal to the district court.

First reading, 7.

Referred to Committee on State and Federal Government.

Returned, do pass, 10.

Second reading, 17.

Passed, 18.

Clincher motion, 22.

Sent to House, 23.

Received from House, indefinitely postponed, 38.

Senate Bill No. 4—(Senator Ringsak)

Senate Bill No. 4. A Bill for an Act to provide for the imposition of a temporary sales tax, exemptions thereto, manner of collection and administration, appeals, penalties, refunds, allocation of revenues, effect on existing laws, and providing effective dates.

First reading, 7.

Referred to Committee on Finance and Taxation.

Returned, indefinitely postponed, 15.

Reconsidered, 43.

Second reading, amended, 44.

Second reading, 56.

Engrossed, 56.

Passed, 56.

Clincher, 56.

Sent to House, 56.

Received from House, amended, 60.

Senate does not concur, 81.

Conference Committees, 81, 83, 85.

Conference Committee reports, 83, 84, 86.

Senate Bill No. 5—(Senators Longmire and Sinner)

Senate Bill No. 5. A Bill for an Act making an appropriation for the purpose of paying expenses of the institutional collections program for the state hospital and to amend and reenact subdivision 17 of subsection 3 of House Bill No. 501 of the Thirty-ninth Legislative Assembly, also known as subdivision 17 of section 3 of chapter 28 of the 1965 North Dakota Session Laws, relating to the appropriation for the board of administration, and declaring an emergency.

First reading, 8.
 Referred to Committee on Appropriations.
 Returned, amended, 10.
 Amendments adopted, 16.
 Engrossed, 17.
 Second reading, 19.
 Passed, emergency clause carried, 20.
 Clincher, 22.
 Sent to House, 23, 59.
 Received from House, 41, 82.
 Enrolled, 59.
 Signed by President, 59.
 Delivered to Governor, 82.

Senate Bill No. 6—(Senator Sinner)

Senate Bill No. 6. A Bill for an Act to amend and reenact section 36-15-08 of the North Dakota Century Code relating to compensation and indemnity payments for herds of animals infected with tuberculosis.

First reading, 8.
 Referred to Committee on State and Federal Government.
 Returned, amended, 11.
 Amendments adopted, 16.
 Engrossed, 17.
 Second reading, 20.
 Passed, emergency clause carried, 20.
 Clincher, 22.
 Sent to House, 23, 59.
 Received from House, 41, 82.
 Enrolled, 59.
 Signed by President, 59.
 Delivered to Governor, 82.

Senate Bill No. 7—(Senator Reichert)

Senate Bill No. 7. A Bill for an Act to create and enact subsection 4 of section 49-18-02 of the North Dakota Century Code, relating to an exemption from the provisions of chapter 49-18 of transportation of livestock between licensed livestock markets.

First reading, 8.
 Referred to Committee on State and Federal Government.
 Returned, indefinitely postponed, 11.

Senate Bill No. 8—(Senator Becker)

Senate Bill No. 8. A Bill for an Act to provide for the imposition of a temporary sales tax, exemptions thereto, manner of collection and administration, appeals, penalties, refunds, allocation of revenues, effect on existing laws, and providing effective dates.

First reading, 8.
 Referred to Committee on Finance and Taxation.

Returned, amended, 12.
 Amendments adopted, 16.
 Engrossed, 17.
 Second reading, 20.
 Passed, 21.
 Clincher, 22.
 Sent to House, 23.
 Received from House, amended, 26.
 Senate does not concur, 40.
 Conference Committee, 40, 42.
 Conference Committee reports, 41, 57.
 Tabled, 57.

Senate Bill No. 9—(Senators Hernett and Lips)

Senate Bill No. 9. A Bill for an Act to amend and reenact section 26-24-22 of the North Dakota Century Code, relating to reinsurance of the state fire and tornado fund, as amended by Senate Bill 340 of the Thirty-Ninth Legislative Assembly of North Dakota also known as Chapter 214 of the 1965 Session Laws of the State of North Dakota, and declaring an emergency.

First reading, 8.
 Referred to Committee on State and Federal Government.
 Returned, do pass, 15.
 Second reading, 18.
 Passed, emergency clause carried, 18.
 Clincher, 22.
 Sent to House, 23, 59.
 Received from House, 41, 82.
 House requests return, 43.
 Enrolled, 59.
 Signed by President, 59.
 Delivered to Governor, 82.

Senate Bill No. 10—(Senator Luick)

Senate Bill No. 10. A Bill for an Act providing an appropriation and authorizing the payment of expenses of the Extraordinary Session of the Thirty-ninth Legislative Assembly commencing June 14, 1965, and declaring an emergency.

First reading, 9.
 Referred to Committee on Appropriations.
 Returned, do pass, 15.
 Second reading, 19.
 Passed, emergency clause carried, 19.
 Clincher, 22.
 Sent to House, 23, 84.
 Received from House, 82, 85.
 Enrolled, 84.
 Signed by President, 84.
 Delivered to Governor, 87.

SENATE CONCURRENT RESOLUTIONS

Senate Concurrent Resolution "A"—(Senators Ringsak, Mutch, Torger-son, Beck and Nelson)

Senate Concurrent Resolution "A" A concurrent resolution applying to the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States, relating to apportionment.

First reading, 8.
 Referred to Committee on State and Federal Government.
 Returned, do pass, 15.
 Second reading, 38.
 Adopted, 38.
 Sent to House, 40.
 Returned to Senate, indefinitely postponed, 83.

Senate Concurrent Resolution "B"—(Senator Ringsak)

Senate Concurrent Resolution "B". A concurrent resolution establishing an all-faiths chapel at the Grafton State School.

First reading, 9.
 Referred to Committee on State and Federal Government.
 Returned, do pass, 15.
 Second reading, 19.
 Adopted, 19.
 Sent to House, 23, 59.
 Received from House, 25, 82.
 Enrolled, 59.
 Signed by President, 59.
 Delivered to Secretary of State, 82.

Senate Concurrent Resolution "C"—(Senator Mutch)

Senate Concurrent Resolution "C". A concurrent resolution requesting the Congress of the United States to propose to the people an amendment to the Constitution expressly prohibiting the government of the United States from engaging in enterprise in competition with its citizens, the supreme law of the land, and repealing the 16th amendment.

First reading, 9.
 Referred to Committee on State and Federal Government.
 Returned, indefinitely postponed, 15.

SENATE RESOLUTIONS

Senate Resolution No. 1—(Senator Lashkowitz)

Senate Resolution No. 1. A resolution urging that the United States Junior Chamber of Commerce National Outstanding Young Farmer Contest and Banquet be held in North Dakota.

First reading, 38.
 Second reading, 40.
 Adopted, 40.
 Enrolled, 59.
 Signed by President, 59.
 Delivered to Secretary of State, 82.

Senate Memorial Resolution No. 1—(Senators Holand, Lips and Reichert)

Senate Memorial Resolution No. 1. A memorial resolution in memory of Mrs. A. G. Sorlie.

First reading, 85.
 Printed in Senate Journal, 86.
 Second reading, 86.
 Adopted, 86.
 Enrolled, 87.
 Signed by President, 87.
 Delivered to Secretary of State, 88.

RECORD OF HOUSE BILLS IN THE SENATE

House Bill No. 501—

House Bill No. 501. A Bill for an Act to provide for the imposition of a temporary sales tax, exemptions thereto, manner of collection and administration, appeals, penalties, refunds, allocation of revenues, effect on existing laws, and providing effective dates.

Received from House, 16.
First reading, 17.
Referred to Committee on Finance and Taxation.
Returned, indefinitely postponed, 23.
Returned to House, 25.
Senate requests return, 42.

House Bill No. 503—

House Bill No. 503. A Bill for an Act to amend and reenact subsection 4 of Section 40-58-06 of the North Dakota Century Code, relating to the preparation and approval of urban renewal plans for municipalities and eliminating certain requirements with regard to permitted uses on redevelopment and declaring an emergency.

Received from House, 22.
First reading, 22.
Referred to Committee on State and Federal Government.
Returned, do pass, 23.
Second reading, 39.
Passed, emergency clause carried, 39.
Returned to House, 41, 82.
To Senate, 81.
Signed by President, 81.

House Bill No. 504—

House Bill No. 504. A Bill for an Act to amend and reenact sections 2 and 16 of House Bill No. 903, also known as sections 2 and 16 of Chapter 217 of the 1965 North Dakota Session Laws, relating to the establishment and operation of family courts.

Received from House, 22.
First reading, 22.
Referred to Committee on State and Federal Government.
Returned, indefinitely postponed, 23.
Returned to House, 25.

House Bill No. 505—

House Bill No. 505. A Bill for an Act to amend and reenact section 28-20-34 of the 1963 Supplement to the North Dakota Century Code, relating to interest rates on judgments.

Received from House, 22.
First reading, 22.
Referred to Committee on State and Federal Government.
Returned, do pass, 23.
Second reading, 39.
Passed, 39.
Returned to House, 41, 82.
To Senate, 81.
Signed by President, 81.

House Bill No. 506—

House Bill No. 506. A Bill for an Act to authorize the North Dakota board of higher education to grant to Northwestern Bell Telephone Company an easement over certain tracts of land, and declaring an emergency.

Received from House, 22.
First reading, 22.
Referred to Committee on State and Federal Government.
Returned, do pass, 23.
Second reading, 39.
Passed, emergency clause carried, 40.
Returned to House, 41, 82.
To Senate, 81.
Signed by President, 81.

House Bill No. 507—

House Bill No. 507. A Bill for an Act to provide medical assistance for needy persons.

Received from House, 22.
First reading, 23.
Referred to Committee on State and Federal Government.
Returned, do pass, 23.
Second reading, 40.
Passed, 40.
Returned to House, 41, 82.
To Senate, 81.
Signed by President, 81.

House Concurrent Resolution "B" —

House Concurrent Resolution "B". A concurrent resolution urging and requesting the Diamond Jubilee Committee to transfer all remaining unencumbered funds to the North Dakota Heritage Commission for deposit in the state treasury in the special heritage center fund.

Received from House, 17.
First reading, 17.
Referred to Committee on State and Federal Government.
Returned, indefinitely postponed, 24.
Returned to House, 25.