

§ 4. APPLICATION.] This act shall not apply to any corporation the charter of which has been declared forfeited by the final judgment of any court of competent jurisdiction in this State, nor to any corporation as to which there is any action or proceedings pending in any of the courts in this State for the forfeiture of its charter, nor to any corporation whose directors have acted as trustees under the provisions of Section 4567, Compiled Laws of 1913.

§ 5. EMERGENCY.] An emergency is hereby declared to exist and this act shall, therefore, take effect and be in force from and after its passage and approval.

Approved March 3, 1927.

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## COUNTIES

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### CHAPTER 114

(H. B. No. 285—Johnson of Foster)

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#### SALARIES COUNTY AUDITOR, COUNTY TREASURER, SHERIFF AND COUNTY SUPERINTENDENT OF SCHOOLS

An Act to Amend and Re-enact Section 3551a1 of the Supplement to the Compiled Laws of North Dakota for the Year 1913, Relating to the Salaries of County Auditor, County Treasurer, Sheriffs and County Superintendents of Schools.

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

§ 1. AMENDMENT.] That Section 3551a1 of the Supplement to the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows:

§ 3551a1. SALARIES OF COUNTY AUDITOR, COUNTY TREASURER, SHERIFFS AND COUNTY SUPERINTENDENTS OF SCHOOLS.] The salary of the county auditor, county treasurer, sheriff and county superintendent of schools shall be regulated by the population in the respective counties according to the last preceding official state or Federal census from and after the date when the official report of such census shall be published by the director of the census or such other official as may be charged with the duty of making such official publication.

Provided that county auditors, county treasurers, sheriffs and county superintendents of schools shall receive \$1,500.00 for their personal and official services in each year in counties having populations not exceeding 5,000; \$1,700.00 in counties having a population exceeding 5,000 and not exceeding 7,000; \$1,800.00 in counties having a population of 7,000 and not exceeding 8,000; provided further

that in counties having a population in excess of 8,000, there shall be an additional compensation of \$40.00 for each 1,000 additional population and major fraction thereof and provided, further, that in no case shall the maximum of such compensation exceed the sum of \$3,000.00.

Approved March 3, 1927.

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CHAPTER 115  
(S. B. No. 154—Rusch)

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SALARIES OF COUNTY OFFICIALS

An Act Relating to and Fixing the Salaries of the County Auditor, the County Treasurer, the Register of Deeds, and County Sheriff, the Clerk of the District Court, the County Judge, the States Attorney and the County Superintendent of Schools, also Fixing the Number of and the Salaries to be Paid to the Deputies, and Providing for Clerks and Assistants to be Employed in the Offices of the County Auditor, County Treasurer, Register of Deeds, Clerk of the District Court, County Sheriff, States Attorney, County Judge and the County Superintendent of Schools, (in Counties Having a County Court of Increased Jurisdiction and Having a Population Exceeding Forty Thousand) and Repealing All Acts or Parts of Acts in Conflict Therewith.

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

§ 1. The salary of the County Auditor, County Treasurer, Sheriff, County Judge, Superintendent of Schools, and the States Attorney, in Counties where the County Court has increased jurisdiction and where the County has a population exceeding forty thousand, shall be Three Thousand Dollars (\$3,000.00) each per year.

§ 2. The salary of the Register of Deeds, and the Clerk of the District Court, in Counties where the County Court has increased jurisdiction and where the County has a population exceeding forty thousand, shall be Two Thousand Five Hundred Dollars (\$2,500.00) each per year.

§ 3. In Counties having a population exceeding forty thousand and where the County Court has increased jurisdiction, the County Auditor shall be allowed one Deputy at Eighteen Hundred Dollars (\$1,800.00) per year. The County Treasurer shall be allowed one Deputy at Eighteen Hundred Dollars (\$1,800.00) per year.

The County Sheriff shall be allowed one Deputy at One Thousand Eight Hundred Dollars (\$1,800.00) per year; three Deputies at One Thousand Five Hundred Dollars (\$1,500.00) each per year; and one Matron at Three Hundred Sixty Dollars (\$360.00) per year.

The Register of Deeds shall be allowed one Deputy at One Thousand Eight Hundred Dollars (\$1,800.00) per year.

The Clerk of the District Court shall be allowed one Deputy at One Thousand Eight Hundred Dollars (\$1,800.00) per year.

The County Judge shall be allowed one Clerk of the County Court at One Thousand Eight Hundred Dollars (\$1,800.00) per year.

The County Superintendent of Schools shall be allowed one Deputy at Two Thousand Four Hundred Dollars (\$2,400.00) per year; and one Deputy at One Thousand Eight Hundred Dollars (\$1,800.00) per year.

The States Attorney shall be allowed one Assistant at One Thousand Five Hundred Dollars (\$1,500.00) per year; one Assistant at One Thousand Dollars (\$1,000.00) per year.

§ 4. The salary of additional help, in the offices of the County Auditor, County Treasurer, Register of Deeds, Clerk of District Court, County Judge, County Sheriff, States Attorney, and Superintendent of Schools, and as to the number necessary, and the salary to be paid to such employees, shall be left entirely in the hands of the County Commissioners. Such employees shall be named with the recommendation of the County official in his or her office (in Counties having a County Court of increased jurisdiction and having a population exceeding forty thousand).

§ 5. All acts and parts of acts in so far as they are in conflict with this act, are hereby repealed.

Approved March 5, 1927.

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## CHAPTER 116

(S. B. No. 57—Martin and Peck)

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### SEED AND FEED

**An Act to Authorize Counties to Issue Bonds, Certificates of Indebtedness or Warrants to Procure Seed Grain and Feed for Needy Inhabitants Therein and Providing for the Issuance of Bonds, Warrants and Certificates of Indebtedness for Seed Grain by Counties and Aid by the State in Respect Thereto.**

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

§ 1. In any county of the state where the crops for any preceding year have been a total or partial failure by reason of drouth, hail or other cause, it shall be lawful for, and it shall be the duty of, the board of county commissioners of such county, to issue the bonds of the county under and pursuant to the provisions

of this article, and with the proceeds derived from the sale thereof, to purchase seed grain and feed for the inhabitants thereof who are in need of seed grain and feed, and are unable to procure the same, whenever said board shall be petitioned in writing so to do by not less than 1% of the freeholders resident in the county; and said board at a meeting called as hereinafter provided to consider said petition, may by a majority vote determine if the prayer of the petitioners should be granted; provided that all such petitions shall be filed with the county auditor on or before the twenty-fifth day of March; and thereupon it shall be the duty of said officer to forthwith call a meeting of the board of county commissioners of his county to consider said petition; and provided, further, that the total amounts of bonds issued by any county under the provisions of this article shall not, with the then existing indebtedness of the county, exceed the limit of indebtedness fixed by the constitution in such case; that said bonds shall be in denominations of from five hundred to one thousand dollars; shall bear a rate of interest not exceeding six per cent per annum, payable semi-annually at such place and time as shall be determined by the board, and that all bonds issued under the provisions of this article shall become due and payable in not less than one or more than five years from the date thereof, the date of maturity to be fixed by the county board at the time of the issuance thereof with the above limitation.

§ 2. Such bonds shall be signed by the chairman of the board of county commissioners and be attested by the county auditor, who shall affix the seal of the county thereto and shall have indorsed thereon a certificate signed by the county auditor stating that said bonds are issued pursuant to law and are within the debt limit.

§ 3. Counties issuing bonds, warrants or certificates of indebtedness under the provisions of this act may sell and dispose of the same in the manner and form now provided by law for the sale of county bonds, warrants and certificates of indebtedness. Provided, however, that the same shall not be sold below par.

§ 4. For the purpose of securing prompt payment of the principal and interest of said bonds, there shall be levied by the board of county commissioners at the time and in the manner other taxes are levied, such sums as shall be sufficient to pay such interest, and in addition thereto a sinking fund tax shall be annually levied sufficient to pay and retire said bonds at their maturity, and it shall be the duty of the county treasurer to pay promptly the interest upon the said bonds as the same shall fall due. No tax or fund provided for the payment of such bonds, either principal or interest, shall at any time be used for any other purpose; provided, however, that the board of county commissioners may deposit any part or portion of the sinking fund herein provided for, in the Bank

of North Dakota, and receive interest on the same which shall be credited to the sinking fund. It shall be the duty of the treasurer when said bond or any coupons attached thereto are paid, to cancel the same by writing upon the face thereof the word "paid" and the date of payment. Before the bonds are delivered to the purchaser, the treasurer of the county shall register them in a book to be provided for that purpose, known as the bond register, in which register he shall enter the number of each bond, its date, date of maturity, amount, rate of interest, to whom and where payable; provided that said treasurer shall receive a per centum at the discretion of the county commissioners, not to exceed one per cent, for the receiving and disbursing of the amount received from the sale of said bonds, said per centum to be covered into the treasury as a part of the salary fund. The board of county commissioners may issue warrants instead of bonds, as now provided by law for the issuance of warrants before this act became effective, if in their judgment the best interests of the county are thereby served; provided, that such warrants shall not be issued in any amount to exceed five per cent of the assessed valuation of such county; provided, further, that such warrants shall not be sold below par; and provided, further, that such warrants shall not be term warrants.

§ 5. The fund arising from the sale of said bonds shall be applied exclusively by the said board for the purchase of seed grain and feed, for residents of the state who farm land within the county who are unable to procure the same; provided that the county commissioners shall determine the amount of seed and feed or either, which each applicant shall receive and that in no case shall any one person receive feed in an amount exceeding \$300.00 (three hundred dollars) in value and seed to sow and plant more than two hundred (200) acres of land, and provided, further, that the county auditor shall issue to each applicant an order for the number of bushels of each kind of seed grain, together with the amount of feed, that has been allowed by the board, to be furnished to any one applicant.

§ 6. In providing for the purchase of seed grain and feed or either, the commissioners may, in lieu of issuing bonds, order warrants drawn upon the general fund of the county or issue certificates of indebtedness in the manner now provided by law to pay for the feed and seed grain purchased under the general provisions of this article; provided, that such warrants or certificates of indebtedness shall not be sold below par, and provided, further, that such warrants shall not be term warrants. Provided, further, that no bonds, warrants, or certificates of indebtedness, shall be issued, under this act, by or in any county which has not been re-

imbursed or repaid at least sixty per centum (60%) of the amount of any and all bonds, warrants, and certificates of indebtedness which have been heretofore issued by such county for the purpose of furnishing seed or feed of any kind to or for the inhabitants of such county, or to aid or assist such inhabitants in the obtaining or procuring of seed or feed.

§ 7. All persons entitled to, and wishing to avail themselves of the benefit of this article, shall file with the county auditor, on or before the tenth day of March an application duly sworn to before said county auditor, or some other officer authorized to administer oaths. Said application shall contain a true statement of the number of acres the applicant has plowed or prepared for seeding; how many acres the applicant intends to have plowed or prepared for seeding; how many bushels and what kind of grain he will require to seed the ground so prepared as aforesaid; how many bushels of grain the applicant harvested in the preceding year, and the amount, and kind of grain and feed that he has in his possession; that the applicant has not procured and is not able to procure the necessary seed grain for the current year; that he desires the same for seed and feed and no other purpose, and that he will not sell or dispose of the same or any part thereof, but will use the same and the whole thereof in seeding the land prepared or to be prepared for crop. Said application shall also contain a true and full description of all the real and personal property owned by the applicant, and the encumbrances thereon; and a true description by government subdivisions of the land upon which the applicant intends to sow said seed grain. All applications filed under the provisions of this article shall be consecutively numbered and shall be open to public inspection, and no application shall be considered by the board of county commissioners except such as have been made and filed in the manner prescribed in this section; provided, that the board of county commissioners may in their discretion consider any application although made after the time so specified. If the applicant is a renter, the owner of the land shall sign the application with him, unless an exception is made by the county commissioners in such instance. If the owner of the land is a resident and married, his wife shall also sign the application and notes.

§ 8. The board of county commissioners of each county issuing bonds or warrants under the provisions of this article are hereby appointed and constitute a board of examination and adjustment of the applications for seed grain and feed filed under the preceding section, and it shall be the duty of said board to meet at the county auditor's office within five days after the filing of said petition, or

as soon thereafter as possible, to examine and consider separately each application filed under the provisions of this article, and to determine who are entitled to the benefits thereof, and the amount to which each applicant is entitled, and said board shall on or before the fifteenth day of March deliver and file with the county auditor its adjustment of the said applications, which shall be signed by the chairman of the board.

§ 9. The county auditor of each county shall as soon as the county commissioners shall have performed the duty prescribed in the preceding sections issue to each applicant demanding it an order for the number of bushels of each kind of seed grain and amount of feed which has been allowed to said applicant, unless otherwise directed by the board or the chairman thereof; provided, that in no event shall seed be furnished for more than two hundred (200) acres or more than the actual number of acres possessed and cultivated by such applicant; provided, however, that said order shall not be delivered until said applicant shall have signed a contract in duplicate, which contract shall have the same force and effect as a promissory note, attested by the county auditor to the effect that said applicant for and in consideration of the ..... bushels of seed grain and ..... of feed received from ..... County, promise to pay to said county ..... dollars, the amount of cost of said seed grain and feed; and if the applicant be a renter, the owner of the land must also sign same; that the amount of said indebtedness shall become due and payable on the first day of October in each year in which said seed grain and feed is furnished, together with interest, on such amount from the date of the bonds provided for herein, at the rate not to exceed six per cent per annum, and in no case at a greater rate of interest than the said bonds draw, and if such indebtedness be not paid on or before the fifteenth day of October in that year, it shall then be the duty of the county auditor of said county to cause the amount of said indebtedness to be entered upon the tax lists of said county then in the hands of the county treasurer as a lien against the land owned by the applicant for which said seed and feed were furnished, to be collected as taxes are, and the sum so entered and levied shall be a lien upon the real estate owned by said person, for which said seed and feed were furnished, until said indebtedness is fully paid, when it shall be the duty of the proper officer to cancel the same; provided, that such indebtedness shall not be subject to the penalty provided for taxes, nor shall it bear a greater rate of interest than six per cent per annum.

Provided, further, that if the applicant is a renter, the owner of the land shall also sign the contract with him, and if married and residing in the state, his wife shall also sign with him, except in case where an exception is made by an order of the board of

county commissioners, and where the owner signed such contract, the county shall in addition have a lien upon all real estate of such owner upon which said seed and grain were sown.

If such indebtedness be not paid on or before November first, of such year, or if the sheriff shall have reason to believe that any person who shall have received aid under this act is about to remove from the county, or is about to sell and dispose of his grain without first paying to the county the amount due, it shall be his duty to take and sell a sufficient amount of grain of such applicant to pay such indebtedness, including the cost of seizure, in the same manner as now provided for the collection of taxes in section 2166 of the Supplement to the Compiled Laws of North Dakota for 1913.

It shall be the duty of the County Treasurer to collect said notes as they fall due and upon payment of the same to satisfy the lien in the office of the register of deeds and return the note to the debtor.

It shall further be the duty of the county treasurer to deliver to the state's attorney a statement of all contracts which remain unpaid on the first day of January, following the said year, and it shall be the duty of the state's attorney to immediately in behalf of and in the name of said county to commence an action for the placing of such indebtedness in judgment, or for the foreclosure of the lien securing any of said notes in accordance with the laws providing for the foreclosure of liens or of mortgages. The county commissioners may from year to year extend the time of payment and take new and additional security whenever crop failures justify and require such extension.

§ 10. The county auditor shall file and record such contract in the office of the register of deeds of such county and under the filing of the contracts provided for in Section 8, the county shall acquire a just and valid lien upon the crops of grain and feed raised each year by the person receiving seed grain and feed to the amount of the sum then due to the county upon said contract, which shall as to the crops covered thereby have priority over all other liens and encumbrances thereon, except threshers liens.

The county shall in addition have a lien, if the owner of the real estate has signed the application and note, upon all real estate described in the application upon which said grain is to be sown, which shall have priority over all encumbrances except those existing at the time this act goes into effect. And the filing and recording of said contract shall be held and considered to be full and



sufficient notice to all parties of the existence and extent of said lien upon said crops of grain and feed raised, and upon said land, which shall continue in force until the amount covered by said contract shall be fully paid.

§ 11. On the first day of September following the furnishing of any seed or feed under the provisions of this act, the county treasurer shall mail to each person having obtained aid under the provisions of this act a statement of the amount which will be due upon his note on the date it becomes due.

§ 12. Any person or persons who, contrary to the provisions of this article, sell, transfer, take or carry away, or in any manner dispose of the seed grain and feed or any part thereof, furnished by the county under this act, or shall use or dispose of seed grain and feed or any part thereof, for any other purpose than that of planting or sowing and feeding the same as stated in this application, or shall sell, transfer, take or carry away, or in any manner dispose of the crop, or any part thereof, produced from the sowing or planting of said seed grain, shall be guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than fifty dollars, nor more than one thousand dollars, or may be imprisoned in the county jail for a term of not less than ninety days, and shall pay all the costs of prosecution, and whoever under any of the provisions herein shall be found guilty of false swearing shall be deemed to have committed perjury and shall upon conviction suffer the penalties of that crime, and upon the filing of said application in the office of the register of deeds, and the sowing of the seed obtained thereunder, any seizure thereof or interference therewith, except by the applicant and those in his employ, for the purpose of harvesting, threshing and marketing the same to pay the debt as aforesaid, shall be deemed a conversion thereof.

§ 13. Whenever a bond or warrant issue has been determined upon by the board of county commissioners, it shall be the duty of the county auditor, forthwith, to give notice by publication in the official paper of the county that application blanks may be had from the county auditor, and that assistance will be given in filling out said blanks.

If more seed grain is applied for than can be supplied by the commissioners under the provisions of this article, a pro rata distribution shall be made by them among those who shall have been found entitled to the benefits of this article. The commissioners shall have the right to refuse any application which they may deem improper to grant, and they may revise their adjustment of applications at any time before final distribution.

§ 14. It shall be the duty of the commissioners providing seed grain and feed under the provisions of this article, to purchase the same at the lowest price at which suitable grain can be obtained, and to furnish the same to applicants at the actual cost thereof to the commissioners, with transportation and handling charges added, if any there be, and any person requiring or extorting from any applicant a greater price shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine or imprisonment, or both, as the court may determine. Any official, or agent of any official, who conspires with others to make any profit directly or indirectly out of the transaction for himself or for them, or accepts or extorts from any applicant a greater price than that authorized therein, shall be guilty of a felony and upon conviction shall be sentenced to the penitentiary for a term of not less than one nor more than five years. Provided, that the commissioners shall charge ten (10) per cent of the actual cost of the seed and feed or either of them to the applicant to defray the cost of collection which shall be refunded if the applicant pays the amount due the county without expense.

§ 15. All money received by the county treasurer in payment of debts incurred under the provisions of this article, shall be paid into, and become a part of the sinking fund herein provided for, and be used exclusively in the payment of bonds or warrants issued hereunder.

§ 16. Immediately after the board of county commissioners has made an estimate of the amount of seed grain or feed or both required, it shall notify the commissioner of agriculture and labor, and he shall assist and co-operate with the board in procuring said grain and feed. The board may advertise for offers of seed grain or feed or both, in one or two newspapers within the county, and give the same such other publicity as it may deem advisable. Where price and quality are equal, preference shall be given to grain and feed offered for sale within the county.

The board and the commissioner of agriculture and labor shall take samples from the grain offered which in their judgment is most suitable for seed, and shall transmit them to the state seed commissioner at the agricultural college for analysis and germination test. The state seed commissioner shall make a prompt report of such test, classifying the samples as to their fitness for seed, which report shall be filed in the county auditor's office and in the office of the commissioner of agriculture and labor, and shall be open to public inspection.

No contract shall be made for any lot of seed grain which in its viability (growth power), its varietal purity, and its freedom from noxious seeds, is unsatisfactory for use as bulk seed for sowing the general crop.

After the grain has been delivered to the board of county commissioners a second test may be made, if in the opinion of the commissioner of agriculture and labor time permits, before it is distributed to the farmers. In no event shall any grain be sold to the farmers by the county as seed which is unsuitable for the growing of the general crop.

§ 17. The commissioner of agriculture and labor shall prepare such uniform blanks as he shall deem necessary for the purpose of this act and supply the same to the county auditor of any county issuing bonds.

§ 18. No bonds issued or proceeding had heretofore under Chapter 24 of the Political Code of the Compiled Laws of North Dakota for 1913, or any subsequent acts pertaining to feed and seed bonds shall be invalidated or in any manner made void by this act.

§ 19. Whereas it is necessary and proper that the State of North Dakota in its sovereign capacity shall enact suitable legislation to aid and assist destitute and needy farmers, who by reason of drouth, rust, hail or other cause are unable to purchase seed grain or feed to farm lands within the State of North Dakota, and whereas, it is necessary in the best interests of the state to protect such needy and destitute farmers that aid be given as herein provided, therefore, it is the intention of this act to give aid and assistance to such farmers and that this act shall be liberally construed to effectuate that purpose and if for any reason any part or portion thereof shall be declared to be unconstitutional, it shall not affect the other part or portion thereof.

§ 20. It is the duty of the boards of commissioners of the various counties that may be affected by this act to exercise careful discretion in the purchase and distribution of seed and feed under the provisions hereof and such boards are authorized and empowered to incur all reasonable and necessary expense to effect the payment and collection of the notes and indebtedness resulting therefrom.

§ 21. Provided further that in case Congress shall appropriate money for relief to be advanced to the needy farmers for the purchase of seed and feed, then in that event the county commissioners shall co-operate with the Federal Government agencies to the end that the relief herein provided for shall coordinate therewith without conflict or duplication.

§ 22. All laws and parts of laws in conflict herewith are hereby repealed.

§ 23. Whereas an emergency exists in that there has been a crop failure in many parts of the state, and no adequate relief

is provided for by law, and whereas it is necessary for the immediate preservation of public peace, health and safety that immediate relief be given, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 11, 1927.

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CHAPTER 117  
(S. B. No. 171—Atkins)

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AUTHORIZING COUNTY COMMISSIONERS TO ERECT  
MEMORIALS

An Act Amending and Re-enacting Section 2071c1 of the Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. AMENDMENT.] Section 2071c1 of the Supplement to the 1913 Compiled Laws of North Dakota is hereby amended and re-enacted to read as follows:

§ 2071c1. COUNTY COMMISSIONERS AUTHORIZED TO ERECT A MEMORIAL OR OTHER SUITABLE RECOGNITION; TO LEVY TAXES.] The Board of County Commissioners of any county in the State of North Dakota is hereby authorized to erect a memorial or other suitable recognition in commemoration of the people of the county who rendered services, or who lost their lives in the service of their country during the Great World War and may for such purpose use funds out of the general fund of the county if there is sufficient money in said fund, or use funds heretofore raised by tax levy for such memorial, and may after the taking effect of this Act and prior to September 1, A. D. 1928, levy a tax not in excess of one mill on the dollar upon the assessed valuation of all the property in the county, or may use funds for that purpose donated to the county for that purpose, or may for such purpose use funds out of the general fund of such county if there is sufficient money in said fund in conjunction with the funds so donated or obtained by such levy and tax, and the proceeds of such levy, tax, and donations, together with the amount taken out of such general fund, shall be used solely for the purpose of erecting such memorial or other suitable recognition; provided, however, that in no case shall such Board expend tax moneys in excess of the maximum levy permitted under this act together with such amount as has been levied under the provisions of Chapter 181 of the Session Laws for the year 1919. Provided, however, that nothing herein contained shall be construed to prohibit said board from expending any additional moneys derived from sources other than taxation. Such memorial or other suitable recognition shall be erected within the county at a place determined upon by such board and such memorial or recognition, when erected,

shall be properly and permanently maintained by such board by necessary expenditures from the general fund of the county or from funds donated to the county therefor or from either or both of such funds. Provided, further, that where funds have been heretofore raised by tax levy for such memorial, and the funds so raised are unexpended, the Board of County Commissioners may, at any time after September 1, 1928, by resolution transfer any such unexpended funds to the General Fund of the County.

§ 2. EMERGENCY.] This act is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 5, 1927.

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CHAPTER 118  
(H. B. 327—Oberg)

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PROTECTION OF RIVER BOTTOM LANDS

An Act to Provide for the Protection of River Bottom Lands and Defining the Powers and Duties of the Boards of County Commissioners in Connection Therewith.

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

§ 1. REVETMENT WORK, HOW CONSTRUCTED.] Revetment work along any river in the state may be constructed and maintained in any county, whenever the same shall be conducive to the public health, convenience of welfare, under the provisions of this Act. The words "revetment work" when used in this act shall be deemed to mean, in addition to their ordinary and accepted meaning, embankments, revetments, retards, or any other improved system of construction which may be deemed necessary to protect the banks of any river or stream, within or adjacent to any county, and any drainage work that may be necessary to be done in order to more fully protect any lands by revetment work, shall be done under the provisions of this act when done in connection with revetment work.

§ 2. HOW ESTABLISHED.] A petition for the construction of revetment work may be made in writing to the Board of County Commissioners, which petition shall state the description of the land sought to be protected by the construction of revetment work, and shall be signed by the owners of two-thirds of the land which will be benefited by the construction of such revetment work and such petition must be accompanied by a sum of money or a bond sufficient to pay all expenses of a survey, plans and specifications

and an estimate of the cost and all other expenses connected therewith should it appear after the engineer's report is filed, that the costs will be more than the benefits to be derived from its construction. Upon the filing of such petition and sum of money or bond with the county auditor, the board of county commissioners shall at once proceed to examine the lands proposed to be protected by the construction of revetment work and if in the opinion of the majority of the members of the board the construction is necessary for the welfare of the owners of the land sought to be protected and is for the public good, it shall enter a resolution to that effect and shall appoint a competent engineer who is a resident of the state, to prepare plans, specifications and an estimate of the probable cost. The engineer shall forthwith make surveys and prepare plans and specifications of the proposed work, and shall show upon such plans the regular subdivisions of the land which in his judgment will be benefited by the construction of such revetment work together with an estimate of the probable cost of the work. Upon the filing of the engineer's plans, specifications and estimate with the county auditor the board of county commissioners shall at once fix a date and public place of hearing objections to the petition, which shall be as near as practicable to the vicinity of the lands sought to be benefited by the construction of such revetment work. Such notice must be published in the official or a legal newspaper of the county and such hearing shall not be held until ten days after such publication of notice. All persons whose land may be affected by such revetment work, may appear before the board at this hearing and fully express their opinion and offer evidence upon all matters pertaining to the proposed work and if the owners of two-thirds of the land subject to assessment for the cost of the construction, believe that the benefits to be derived are not equal to the cost of construction they may petition the board of county commissioners to discontinue further proceedings, whereby the said board shall by resolution order further proceedings discontinued. But if such petition for discontinuance be not filed the said board shall have authority to advertise for bids for the construction of the work and to levy and collect assessments therefor and to issue warrants for the payment of the cost therefor as hereinafter provided.

§ 3. ADVERTISEMENT FOR BIDS.] The board of county commissioners shall at once cause proposals for such work to be advertised for in the official or a legal newspaper of the county, once each week for two consecutive weeks and shall call for bids upon a basis of cash payment for the work to be done and shall state the time within which such bids shall be received and within which time the work must be completed. The board may require the bidders to state the rate of interest the warrant shall bear which must be accepted by him at par in payment for the work, but said

warrants shall not bear to exceed seven per cent per annum. Bids for such work shall be opened by the board at the expiration of the time limited in said advertisement, which time shall be not less than fifteen days after the first publication thereof, or at such other time as the board may appoint therefor, and if accompanied by a certified check as hereinafter provided, shall be considered and if not accompanied by such certified check the said bid shall not be considered but must be rejected. Provided that the board of county commissioners shall retain the right to reject any or all bids.

§ 4. BIDS.] Each bid must be accompanied by a certified check in the sum of five per cent of the total amount bid, endorsed or made payable to the chairman of the board of county commissioners as a guarantee that the bidder will, if successful, enter into a contract and furnish a surety bond for the faithful performance of the work, in case such contract is awarded to him and in case such bidder to whom the work is awarded, fails to execute such contract and bond as provided, the check accompanying his bid shall be and remain the property of the county and shall be turned over to the county treasurer who shall credit the proceeds of such check to the fund for which the work is to be done.

§ 5. BONDS.] The successful bidder shall within ten days after the award of the contract file with the county auditor a contract bond in a sum equal to the full amount bid. Such bond shall be executed by the contractor as principal and a surety company authorized to do business in this state, as surety.

§ 6. CONTRACTS.] All contracts entered into for any work provided for in this act shall be entered into in the name of the county and shall be executed on the part of the county by the chairman of the board of county commissioners thereof and countersigned by the county auditor. Each contract so entered into shall state the time within which such work must be completed, and must state from what fund the amount to be paid thereon by the county, is to be paid, and that the consideration of such contract is payable only in warrants drawn on such fund.

§ 7. CONTRACTOR, HOW PAID.] The contractor to whom any such contract shall be awarded shall be paid as the work progresses, by the board of county commissioners, upon estimates made by the engineer, but ten per cent of the amount of the estimate shall be retained by the said board until the final completion and acceptance of the work by the engineer and the board of county commissioners.

§ 8. WORK TO BE DONE BY OTHER METHODS.] If after the opening of the bids it should appear to the board of county commissioners that the interests of the owners of the land to be protected and to be assessed for the cost of construction can be best

subservd by the rejection of all bids and by doing the work by any other method such as day labor or otherwise it shall have authority to do so and shall proceed to arrange for the purchase of material or the employment of labor or proceed in any manner it may deem advisable, to construct the work, provided it believes such method will result in a more economical construction cost than by letting the contract to the lowest bidder, provided that in all cases bids must first be received as heretofore provided.

§ 9. ASSESSMENT FUNDS. WARRANTS.] All assessments levied under the provisions of this act shall constitute a fund for the payment of the cost of the revetment work for which they are levied, and shall be diverted to no other fund or purpose, and shall be designated by a number respectively "revetment district number ....." and such funds shall be numbered according to the number of the revetment district in which it is raised, and in anticipation of the levy and collection of such assessments, the county may at any time after the award of the contract, issue warrants, on such funds, payable at specified times and in such amounts as in the judgment of the board of county commissioners, the assessments will provide for, which warrants shall bear interest at the rate of not to exceed seven per cent per annum, and shall be paid semi-annually and shall have coupons attached representing each half year's interest. Such warrants shall state upon their face for what purpose they are issued, and the fund from which they are payable, and shall be signed by the chairman of the board of county commissioners and countersigned by the county auditor, under the seal of the county, and be in denominations of not more than one thousand dollars, and may be sold for cash at not less than the par value thereof or may be used in making payments on the contract. It shall be the duty of the county treasurer to pay such warrants and interest coupons as they mature out of the district funds on which they are drawn. The warrants herein provided shall be paid in equal annual installments extended over a period of not exceeding twenty years, and whenever all assessments for a specific district shall have been collected and applied in payment of the warrants issued for such revetment work and a deficiency remains, the board of county commissioners shall levy a tax upon all the taxable property in the county for the payment of such deficiency, and in case of a balance of such assessment remaining unexpended it shall be used for repairs of such revetment work, provided that any owner of property assessed for the cost of such work may pay his assessment in full at any time after the assessment is made, whereupon all interest on his assessment ceases.

§ 10. ASSESSMENT, HOW MADE.] It shall be the duty of the board of county commissioners, upon the completion of the work to personally inspect each and every tract of land subject to



assessment for the cost of constructing the revetment work, and determine from such inspection the particular tracts of land which will be especially benefited by the construction of the work, and thereupon assess against such tract such sum, not exceeding the benefits, as shall be necessary to pay its just proportion of the total cost of such work, and said board of county commissioners shall thereupon cause to be published a complete list of such benefits and assessments, setting forth each tract of land assessed and the amount each tract is benefited, certifying that the same is a true and correct assessment of the property therein described and signed by a majority of the board of county commissioners, and shall thereupon publish twice, once each week for two consecutive weeks, in the legal newspaper of the county, together with a notice of the time and place where and when such board will meet to hear objections which may be made to any such assessment, by any person interested therein, or by his agent or attorney, which time shall not be less than fifteen days after the first publication of such notice, and such board may thereupon alter the same as may in its judgment be just or as may be necessary to correct any errors therein, but any such changes therein made must be made in such manner as is necessary to make the total of the assessments equal the total cost of the work. Such board shall thereupon file the same in the office of the county auditor and the county auditor shall annually at the same time with other taxes certify to the county treasurer the amount of the annual installment due with accrued interest, which installment shall be collected in the same manner and at the time time as other taxes are now collected, and shall be subject to sale for non-payment in the same manner as all other delinquent taxes are sold.

§ 11. POWERS OF JOINT BOARDS OF COUNTY COMMISSIONERS, IN TWO OR MORE COUNTIES.] Whenever it shall be deemed necessary by the board of county commissioners of two or more counties, to construct or extend revetment work, or the benefits of revetment work through or into two or more counties, the boards of county commissioners of the two or more counties shall act jointly and in the same manner as provided by this act for a single county.

Approved March 3, 1927.

CHAPTER 119  
(H. B. No. 279—Signalness)

**PAROLE OF PRISONERS TO COUNTY COMMISSIONERS FOR  
WORK ON HIGHWAYS**

**An Act to Permit the District Court to Parole Persons Confined in the County Jail, Serving a Sentence, to the County Commissioners of the Various Counties of the State for the Purpose of Performing Work and Labor Upon the Construction, Maintenance and Upkeep of State, County and Township Roads, and Providing that Such Persons in Such Confinement in Any County May Be Transferred by Any Presiding District Judge, From One County to Any Other County in the State, Upon an Order Issued After a Proper Application and Hearing Before Said Judge, and be Committed to the Sheriff of Such County in Accordance With the Terms of His Sentence, and for the Paroles of Such Persons Serving Sentence in Any County Jail, and Providing for Maintenance and Support and Compensation, and Punishment of Such Persons that May Violate their Paroles.**

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

§ 1. That whereas many persons are sentenced to and confined in the various county jails of the state, and that proper employment for such persons is not provided for by law, and whereas extensive and costly improvements are being made in the public highways in the state of North Dakota, and whereas it is desirable to give employment to such persons so confined in county jails, and for the purpose of assembling a crew of persons so confined for the purpose of building and improving, or maintenance and upkeep of state, county and township roads, be it provided that whenever the Board of County Commissioners of any county shall, by resolution, undertake to build, maintain or repair such highways in their county, they may make application to the District Court of said county for permission to take inmates of any county jail on parole for the purpose of performing labor upon said highways. Upon proper showing made by the Board of County Commissioners of two or more counties, such persons so confined may be transferred, by order of the District Court of any county in the state, from the custody of the sheriff of any such county in the state to the sheriff of any other county in the state, which shall have made proper application, in writing, for such persons to be transferred for the purpose of utilizing their labor upon such public highway work. Provided, further, that the County Commissioners of such County to which such persons are transferred shall authorize the sheriff of such county to employ a proper, special deputy, or deputies, as may be necessary to supervise and control such persons while on parole to such county. Provided further, that upon proper showing, and the request of the County Commissioners of said county, persons so transferred may be transferred back to the county from which they were taken.

§ 2. The County Commissioners of any county, which shall have persons confined in the county jail on parole, employed as hereinbefore specified, may give as compensation to such persons so employed, not less than fifty cents a day nor more than One Dollar a day, and shall provide for such persons suitable food, shelter, clothing, medical attendance and medicine, including a ration of tobacco for such as use tobacco, and to such who do not use tobacco, a ration of fruit may be issued that will correspond in value to the tobacco ration.

§ 3. That no person so confined and employed on parole shall be subjected to any indignity, humiliation or punishment, excepting such as are unavoidable and necessary for the maintenance of proper discipline. That under no condition shall it be lawful to provide for or allow any such person to have or use alcoholic liquors of any kind.

§ 4. Before any person can be so transferred and paroled he shall sign a waiver witnessed by two witnesses, agreeing to accept the conditions of the transfer and parole.

§ 5. Provided that any person so transferred and paroled who shall violate the terms and conditions of his parole by making his escape from the custody of the sheriff who has him in custody, such person shall forfeit and shall not have credit for any time whatsoever that he has served while on parole; and in addition thereto he shall forfeit to the county all compensation that he has earned while on parole. Provided, that no person so paroled shall be paid any compensation that he may have earned until he has served at least two-thirds of the term of his sentence. Provided, further, that persons who are serving time for a failure to pay a fine shall not receive any financial compensation for time served in order to compensate for the fine.

§ 6. Provided that all persons so confined and serving a jail sentence, and paroled for service, as provided in this act, shall be given credit for time so served in order to diminish his sentence in the following manner: For every four days served in good faith and in the performance of labor as herein provided, he shall receive credit for five days upon his sentence.

§ 7. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1927.

CHAPTER 120  
(H. B. No. 86—Signalness)

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COUNTY SEAT WHEN DEEMED CHANGED

An Act to Amend and Re-enact Section 3237 of the Compiled Laws of North Dakota for 1913, Pertaining to When County Seat Deemed Changed.

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

§ 1. That Section 3237 of the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 3237. In the notice provided for in the last section the place selected to be the county seat of the county must be so declared from a day specified in the notice, not more than one year after the election. After the day thus named in the notice, the place chosen shall be the county seat of the county.

Approved Februray 9, 1927.

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CHAPTER 121  
(H. B. No. 136—Thompson of Ramsey by Request)

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STATE'S ATTORNEY CONTINGENT FUND

An Act to Amend and Re-enact Section 3382 of the Compiled Laws of North Dakota for 1913 Providing for a Contingent Fund for the State's Attorney of Each County.

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

§ 1. AMENDMENT.] That Section 3382 of the Compiled Laws of North Dakota be amended and re-enacted as follows:

§ 3382. The County Commissioners of each county in this State are hereby authorized and directed to set apart at their first meeting in January of each year, from any funds in the County Treasury not specifically appropriated or set aside for any other purpose, a sum of money of not less than \$500.00, and not more than \$1,000.00 in each county having a population of 10,000 or less, according to the last official census; the sum of not less than \$1,000.00 nor more than \$1,500.00 in each county having a population of not less than 10,000 and not more than 20,000; and the sum of not less than \$1,500.00 and not more than \$2,000.0 in each county having a population of more than 20,000, to be used by the State's Attorney of such county as a contingent fund for the purpose of defraying such necessary expenses as are not otherwise provided for in securing evidence in the investigation of criminal cases.

Approved February 19, 1927.