

# L A W S

PASSED AT

THE TWENTY-SECOND SESSION

OF THE

## Legislative Assembly

OF THE

STATE OF NORTH DAKOTA

---

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID  
STATE, ON TUESDAY, JANUARY SIXTH, 1931, AND  
CONCLUDING FRIDAY, MARCH SIXTH, 1931.

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**AUTHENTICATION**

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**STATE OF NORTH DAKOTA,  
Department of State, Bismarck.**

I, Robert Byrne, Secretary of State, hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills passed at the Twenty-second Session of the Legislative Assembly of the State of North Dakota, beginning Tuesday, January 6, 1931, and terminating Friday, March 6, 1931, now on file in this office, with the exception of clerical errors.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of North Dakota, this first day of July, 1931.

**ROBERT BYRNE,**

Secretary of State.

(SEAL)

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# THE LAWS

## ANIMALS

### CHAPTER 1

(S. B. No. 193—Committee on Live Stock.)

#### MARKING TUBERCULOUS CATTLE

An Act to repeal Chapter 53, Sections 9797 and 9798, Penal Code, Compiled Laws of North Dakota 1913, marking of tuberculous cattle.

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

§ 1. Whereas, the Federal Laws require that cattle reacting to the tuberculin test to be moved interstate shall be branded with the letter "T" on the right jaw, therefore Sections 9797 and 9798 of Chapter 53, Penal Code, Compiled Laws 1913, requiring that the letter "T" be punched in the ear are inconsistent and are hereby repealed.

Approved March 11, 1931.

### CHAPTER 2

(S. B. No. 192—Committee on Live Stock.)

#### TUBERCULIN TESTING OF CATTLE IN ADJACENT COUNTIES

An Act to provide for the tuberculin testing of cattle in counties lying adjacent on two sides to counties wherein cattle have been tuberculin tested and such counties have been established by Federal and State authorities cooperating as modified accredited tuberculosis-free areas.

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

§ 1. TUBERCULIN TESTING CATTLE IN COUNTIES.] In any county in this state that lies adjacent on two sides to counties wherein the cattle have been tuberculin tested and such counties have been established by federal and state authorities as modified accredited tuberculosis-free counties the State Live Stock Sanitary Board and its agents are hereby authorized to enforce the tuberculin testing of all cattle in such county under the laws providing for the eradication of bovine tuberculosis.

§ 2. COUNTY COMMISSIONERS SHALL PROVIDE FUNDS.] When the tuberculin testing of cattle shall be undertaken by the state live stock sanitary board and its agents under authority granted in Section 1 of this act, the board of county commissioners in such



county shall provide funds for the transportation between the different farms for the official veterinarians acting as agents of the state live stock sanitary board engaged in the tuberculin testing of the cattle in such county.

§ 3. PENALTY.] Any person who refuses to assist or endeavors to prevent the State Live Stock Sanitary Board or its agents in carrying out the provisions of this act shall be guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than ninety days, or both such fine and imprisonment.

Approved March 11, 1931.

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### CHAPTER 3

(H. B. No. 119—Strutz.)

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#### REGISTRATION OF DOGS

An Act imposing a tax upon dogs, providing for the assessment, levy and collection thereof; providing for the issuance of license tags for all dogs upon which said tax is assessed and defining duties of police officers with reference to killing of unlicensed dogs.

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

§ 1. NAME AND DEFINITION.] This Act shall be known and may be cited as the Dog Law of 1931 of the State of North Dakota. The term "dog" as herein used shall include any dog, male or female, or unsexed, and whether a pup or a mature animal. The term "owner" or "keeper" as herein used shall include every person having a right of property in such dog, and every person who keeps or harbors or cares for such dog, or permits a dog to remain on or about the premises occupied by him. The term "person" as used herein shall include individuals, corporations, co-partnerships and associations; singular words shall include plural, masculine words shall include the feminine and the neuter.

§ 2. ASSESSORS TO LIST DOGS.] Each assessor within the State of North Dakota whose duty it is to assess personal property for the purposes of taxation shall annually when making such personal property assessment, list the name of each and every person who at that time is the owner or keeper of a dog or dogs and in so listing shall set forth the full name, postoffice address and location of the owner or the keeper of the dog or dogs, with the number of the dogs owned or kept by him.

§ 3. DOG TAX.] The county auditor shall enter and charge upon the tax rolls of each year against each person so returned by the assessor as owner or keeper of a dog or dogs at the time of

such assessment, the sum of one dollar (\$1.00) as a personal property tax for each dog so returned as owned or kept by such person. Provided, that any person keeping or having in his possession for boarding or breeding purposes or for the purpose of selling and exchanging such dogs, may obtain from the county auditor a license for the kenneling of dogs and shall pay for such license the sum of seven dollars and fifty cents (\$7.50) for ten dogs or less, and ten dollars (\$10.00) for more than ten dogs, which license shall be granted for the period of one year from July 1st following assessment. All moneys collected from dog taxes as provided in this section shall be entered in the same manner as other personal property tax against the owner or keeper and shall be collected by the treasurer as other taxes upon personal property and by him placed in the general fund.

§ 4. TAGS.] Upon the entry and the charge of said individual dog tax as above provided, the county auditor shall issue to said owner a metal tag for each dog upon which such tax is so assessed and levied, which said tag shall bear the words "dog tax," the name of the county, and the year of its issuance and the serial number of the tag. Said tag shall not be transferable and shall be good until July 1st of the year following that in which the tax is assessed. Said tag shall be worn by the dog for which it is issued at all times during the year, and shall be firmly attached to a collar to be provided by the owner of the dog. Upon payment of a kenneling license, the county auditor shall issue to the person paying said license sufficient tags for all dogs kept by said person, which tags shall bear the words, "kennel tax" and shall otherwise be in the same form as the individual dog tax. The county auditor shall keep a record of serial numbers of tags issued to both owners and kennel keepers. The shape of the tags shall be changed each year. The tags shall be furnished by the county auditor and paid for out of the county general fund. Provided, that should any dog license tag be lost, the owner may, upon affidavit of such loss, procure from the auditor another tag and the latter shall keep a record of all tags so replaced and the serial number of both the old and the new tag. Replacement tags shall be twenty-five cents (25c) each.

§ 5. LIVESTOCK AND POULTRY-KILLING DOGS.] When the ownership of the dog or dogs causing damage to livestock or poultry is determined, the township clerk in organized townships and the county auditor in case of unorganized townships, shall be notified and he in turn shall notify the owner or keeper by registered mail or written notice of such damage. Such notice shall require the owner or keeper of said dog or dogs to kill such dog or dogs within forty-eight (48) hours after the receipt thereof under penalty of paying five dollars (\$5.00) fine for each and every day thereafter until such dog shall be killed. Provided, however, that if the owner or keeper, after receipt of notice as hereinbefore provided, notifies

the township clerk in organized townships and the county auditor in case of unorganized townships, that he desires a hearing in court, the township clerk in organized townships and the county auditor in case of unorganized townships shall file the notice with one of the justices of the peace and the justice of the peace shall notify the owner or keeper of such dogs to appear before him upon three days' notice. All parties interested in such proceedings may be heard and the decision by the justice in such matters shall be final and dogs destroyed by order of said justice; provided, however, that in counties where the herd law is in force, the provisions of this section shall not apply to any dog damaging livestock in driving the same from the premises of its owner.

§ 6. WHEN DOGS MAY BE KILLED.] It is hereby made the duty of every sheriff, deputy sheriff, constable, marshal, police officer or other peace officer within his jurisdiction to take into custody any dog more than six months old found without the tag hereinbefore provided. If the owner of the dog can be ascertained by the officer, he shall be notified; otherwise the dog shall be kept in custody by the officer for five (5) days and destroyed. Upon satisfactory showing to said officer that the dog was under the age requiring a license, it shall be released; and, if the dog is of the age requiring a license upon payment of all dog taxes, penalties and costs assessed against the owner, a tag shall be issued by the county auditor and the dog released.

§ 7. UNCONSTITUTIONALITY.] If any section, clause or proviso of this act shall be declared to be unconstitutional by a court of competent jurisdiction, said section, clause, or proviso so declared to be unconstitutional shall thereby cease to be a part of this act, but the remainder of said act shall stand and be in full force.

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

Approved March 12, 1931.

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#### CHAPTER 4

(H. B. No. 70—Wilson.)

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#### HERD LAW SUSPENSION

An Act to amend and re-enact Section 1 of Chapter 140 of the Session Laws of 1919, being Section 2618 of the Supplement to the Compiled Laws of 1913.

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

§ 1. That Section 1 of Chapter 140 of the Session Laws of 1919, being Section 2618 of the Supplement to the Compiled Laws

of 1913 be, and the same is, hereby amended and re-enacted to read as follows:

§ 2618. HERD LAW: HOW AND WHEN SUSPENDED.] The board of county commissioners of each county in the state shall establish stock districts including all territory within the county for the purposes hereinafter provided. The boundaries of districts so established shall follow township lines. A district may consist of one or more congressional townships or the entire county may be made to comprise one district and all districts shall be subject to the jurisdiction of the board of county commissioners for the purposes of this act. Upon petition of sixty per cent of the electors of any such district as determined by the whole of the number of votes polled at the general election last held therein excluding those votes cast within the corporate limits of any city, town or village, within such district, being filed in the office of the county auditor asking that stock be permitted to run at large between certain dates specified in such petition, it shall be the duty of the board of county commissioners of such county, within ten days thereafter, at a regular or special meeting to declare by resolution that stock may run at large within the limits of said district between the dates named in said petition, except within the corporate limits of any city, town or village, but no stallion, jack, boar, ram, bull or any animal known to be vicious shall be permitted to run at large at any time. Said resolution shall state the date of its taking effect and the date of its discontinuance, which dates shall correspond to those found in the petition hereinbefore provided for, and said resolution shall be effective to permit stock to run at large between said dates of the year or years named only. Provided that if sixty per cent of the electors of any district as determined by the whole number of the votes polled at the general election last held therein, excluding those votes cast within the corporate limits of any city, town or village therein, shall file a petition in the office of the county auditor asking that such resolution be (be) revoked, it shall be the duty of the board of county commissioners of said county, within ten days thereafter at any regular or special meeting, to revoke the previous resolution declaring that stock may run at large, and said board shall not thereafter within one year from the date of such revocation declare it lawful for stock to run at large within said district or any part thereof.

Approved March 7, 1931.

## CHAPTER 5

(H. B. No. 302—Northridge and Correll.)

**GRADING LIVESTOCK BEFORE PACKING PLANT PURCHASES**

An Act to prohibit the purchase by packing plants of livestock by weight until after such livestock has been graded and sorted in the yard; defining packing plants, and prescribing penalties for violation hereof.

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

§ 1. No packing plant within this state shall purchase any livestock by weight unless such livestock shall have been graded and sorted in the yard and the price per pound for each grade fixed and determined before the weighing of such livestock.

§ 2. For the purpose of this act a packing plant shall be construed to be a place where livestock, exclusive of poultry, shall be purchased for the purpose of slaughtering, dressing, curing or processing the same for human consumption, for storage and distribution thereof at wholesale.

§ 3. Each purchase of livestock in violation of this act shall be a separate offense and shall constitute a misdemeanor upon the part of every owner of such packing plant, whether natural persons or corporations, who shall permit the purchase of livestock in any other manner and shall be punishable by a fine not to exceed one hundred (\$100.00) dollars for each offense.

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

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

Approved March 11, 1931.

## CHAPTER 6

(H. B. No. 304—Northridge and Correll.)

**WEIGHING LIVE STOCK AT PACKING PLANTS**

An Act to require all weighing of livestock at packing plants to be done by licensed weighmasters; to provide for the licensing and bonding of such weighmasters and the revocation of such licenses; to define packing plants for the purposes of this act; and to prescribe penalties for violation hereof.

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

§ 1. All livestock purchased or sold at any packing plant within this state shall be weighed by a licensed and bonded weighmaster, who shall deliver to each person from whom livestock is purchased

or to whom livestock is sold a duplicate scale ticket showing gross, tare and net weights. Violation of this section shall be a misdemeanor upon the part of every person or corporation permitting such weighing to be done by any other person than a licensed weighmaster, and shall be punished by a fine of not to exceed one hundred dollars for each unlawful weighing.

§ 2. The chief inspector of the department of weights and measures, or such other state officer as may be charged with the administration of the laws with reference to weights and measures, shall issue a weighmaster's license to any person of good moral character who shall make application therefor, upon payment of a license fee of Five Dollars, and the filing of a bond for the faithful performance of his duties in the penal sum of \$1000.00. Such bond shall run to the State of North Dakota, but any person injured by the wrongful conduct of such weighmaster in the performance of his official duties may bring an action thereon in the name of the state for the recovery of damages therefor. Such bond may be that of a corporate surety company authorized to do business in this state, the cost thereof to be borne by the applicant, and shall be filed in the office of the officer issuing the license. The term of such license and bond shall be for two years, and such license shall be renewable upon the same terms as originally issued.

§ 3. The remuneration of such weighmaster shall be paid by the packing plant by which he is employed.

§ 4. The license of any such weighmaster who shall wilfully or carelessly issue any incorrect scale ticket, or otherwise fail to discharge his duties in a faithful and impartial manner, shall be cancelled by the officer who issued the same in the manner following. Any person may make complaint against any weighmaster in writing to the officer who issued the license, and if such complaint appears upon its face to be meritorious, such officer shall give the complainant and such weighmaster ten days notice by mail of the time and place at which he will hear such complaint, and the notice to the weighmaster shall specify the nature of the charges against him. At such hearing the officer who issued the license may administer oaths and hear such evidence as may be submitted on behalf of the complainant and the weighmaster, and upon such evidence he shall make such order dismissing the complaint or allowing the complaint and cancelling the license, as may, in his judgment, be warranted by the evidence. The wrongful weighing or the wilful issuance of a false scale ticket by a weighmaster shall be a misdemeanor, punishable by imprisonment in the county jail for not to exceed thirty days or a fine of not to exceed \$100 or by both such fine and imprisonment.

§ 5. For the purpose of this act a packing plant shall be construed to be a place where livestock, exclusive of poultry, shall be

purchased for the purpose of slaughtering, dressing, curing or processing the same for human consumption, for storage and distribution thereof at wholesale.

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

Approved March 11, 1931.

## APPORTIONMENT

### CHAPTER 7

(H. B. No. 308—Brunsdale and Herman.)

#### STATE LEGISLATIVE APPORTIONMENT

An Act to amend and re-enact Section 44 of the Supplement to the Compiled Laws of 1913, relating to legislative apportionment.

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

§ 1. AMENDMENT.] That Section 44 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 44. STATE LEGISLATIVE APPORTIONMENT.] The senatorial and representative districts of the state shall be formed, and the senators and representatives be apportioned as follows:

(1) The First Legislative District shall consist of the County of Pembina, and be entitled to one senator and three representatives.

(2) The Second District shall consist of the City of Kenmare and that portion of Ward County situated and being in townships 154, 155 and 156 of ranges 85, 86 and 87; township 157 of ranges 84, 85, 86 and 87; township 158 of range 87; townships 159 and 160 of ranges 87, 88 and 89; and township 161 of range 88, and be entitled to one senator and one representative.

(3) The Third District shall consist of the townships of Perth, Latona, Adams, Village of Lankin, Village of Fordville, Silvesta, Cleveland, Norton, Vesta, Tiber, Medford, Vernon, Golden, Lamp-ton, Eden, Rushford, Kensington, Dundee, Ops, Prairie Center, Fertile, City of Park River, Village of Edinburg, Village of Conway, Village of Hoople, Village of Pisek, Village of Adams, Fairdale, Glenwood, Kinloss, Shepherd, Sauter and Dewey, in the County of Walsh and be entitled to one senator and two representatives.

(4) The Fourth District shall consist of the townships of Forest River, Village of Forest River, Walsh Centre, Grafton, City of Grafton, Farmington, Ardoch, Village of Ardoch, Harriston, Oakwood, Martin, Walshville, Pulaski, Acton, City of Minto, and St. Andrews, in the County of Walsh, and be entitled to one senator and one representative.

(5) The Fifth District shall consist of the townships of Gilby, Johnstown, Strabane, Wheatfield, Hegton, Arvilla, Avon, Northwood, City of Northwood, Lind, Grace, Larimore, City of Larimore, Elm Grove, Agnes, Inkster, City of Inkster, Elkmount, Plymouth, Niagara, Moraine, Logan Center, and Loretta, in the County of Grand Forks, and be entitled to one senator and one representative.

(6) The Sixth District shall consist of the third, fourth, fifth and sixth wards of the City of Grand Forks, as now constituted, and the townships of Falconer, Turtle River, Ferry, Rye, Blooming, Mekinock, Lakeville and Levant, in the County of Grand Forks, and be entitled to one senator and one representative.

(7) The Seventh District shall consist of the first, second, and seventh wards of the City of Grand Forks as now constituted and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Bentru, Americus, Michigan, Union, Washington, and the first and second wards of the City of Reynolds, in the County of Grand Forks, and be entitled to one senator and one representative.

(8) The Eighth District shall consist of the County of Traill, and be entitled to one senator and three representatives.

(9) The Ninth District shall consist of the township of Fargo, and the City of Fargo, in the County of Cass, and be entitled to one senator and five representatives.

(10) The Tenth District shall consist of the townships of Noble, Wiser, Harwood, Reed, Barnes, Stanley, Pleasant, Kinyon, Gardner, Berlin, Raymond, Mapleton, Village of Mapleton, Warren, Normanna, Bell, Harmony, Durbin, Addison, Davenport, Village of Davenport, Casselton, and the City of Casselton, and the fractional township number one hundred thirty-nine (139), range forty-eight (48), in the County of Cass, and be entitled to one senator and two representatives.

(11) The Eleventh District shall consist of the townships of Gunkel, Rush River, Hunter, Arthur, Amenia, Everest, Maple River, Leonard, Dows, Erie, Empire, Wheatland, Gill, Walburg, Watson, Page, the Village of Page, Rich, Ayr, Buffalo, the Village of Buffalo, Howes, Eldred, Highland, Rochester, Lake, Cornell, Tower, Hill, Clifton and Pontiac, in the County of Cass, and be entitled to one senator and two representatives.

(12) The Twelfth District shall consist of the townships of Eagle, Abercrombie, Village of Abercrombie, Dwight, Ibsen, Center, Mooreton, Brandenburg, Village of Great Bend, Summit, Fairmount, Village of Fairmount, De Villo, La Mars, Waldo, Greendale, and the City of Wahpeton, in the County of Richland, and be entitled to one senator and two representatives.



(13) The Thirteenth District shall consist of the County of Sargent, and be entitled to one senator and two representatives.

(14) The Fourteenth District shall consist of the County of Ransom, and be entitled to one senator and two representatives.

(15) The Fifteenth District shall consist of the townships of Baldwin, Dazey, Lake Town, Pierce, Uxbridge, Edna, Rogers, Grand Prairie, Minnie Lake, Anderson, Hobert, Potter, Village of Dazey, Village of Wimbledon, Village of Sanborn, City of Valley City, township 143, range 56; township one hundred forty-three, range fifty-eight; township one hundred forty-two, range fifty-eight; township one hundred forty-one, range fifty-eight; township one hundred forty-one, range fifty-nine; township one hundred forty-one, range sixty-one; and township one hundred forty, range fifty-eight, in the County of Barnes, and be entitled to one senator and one representative.

(16) The Sixteenth District shall consist of the Counties of Steele and Griggs, and be entitled to one senator and three representatives.

(17) The seventeenth District shall consist of the County of Nelson, and be entitled to one senator and two representatives.

(18) The Eighteenth District shall consist of the County of Cavalier, and be entitled to one senator and three representatives.

(19) The Nineteenth District shall consist of the County of Rolette, and be entitled to one senator and two representatives.

(20) The Twentieth District shall consist of the County of Benson, and be entitled to one senator and two representatives.

(21) The twenty-first District shall consist of the County of Ramsey, and be entitled to one senator and three representatives.

(22) The twenty-second District shall consist of the County of Towner, and be entitled to one senator and two representatives.

(23) The Twenty-third District shall consist of the County of Stutsman, and be entitled to one senator and four representatives.

(24) The Twenty-fourth District shall consist of the County of La Moure, and be entitled to one senator and two representatives.

(25) The Twenty-fifth District shall consist of the County of Dickey, and be entitled to one senator and two representatives.

(26) The Twenty-sixth District shall consist of the County of Emmons, and be entitled to one senator and two representatives.

(27) The Twenty-seventh District shall consist of the County of Burleigh, and be entitled to one senator and three representatives.

(28) The twenty-eighth District shall consist of the County of Bottineau, and be entitled to one senator and three representatives.

(29) The Twenty-ninth District shall consist of the City of Minot, and that portion of Ward County situated and being in townships 151, 152 and 153 of ranges 81, 82, 83, 84, 85, 86 and 87; townships 154, 155 and 156 of ranges 81, 82, 83, and 84, and township 157 of ranges 81, 82 and 83, and be entitled to one senator and four representatives.

(30) The Thirtieth District shall consist of Morton County, and be entitled to one Senator and three representatives.

(31) The Thirty-first District shall consist of the County of Stark, and be entitled to one senator and three representatives.

(32) The Thirty-second District shall consist of the Counties of Eddy and Foster, and be entitled to one senator and two representatives.

(33) The Thirty-third District shall consist of the County of Wells, and be entitled to one senator and two representatives.

(34) The Thirty-fourth District shall consist of the County of McHenry, and be entitled to one senator and three representatives.

(35) The Thirty-fifth District shall consist of the Counties of Sheridan and Kidder, and be entitled to one senator and two representatives.

(36) The Thirty-sixth District shall consist of the Counties of McIntosh and Logan, and be entitled to one senator and three representatives.

(37) The Thirty-seventh District shall consist of the townships of Walcott, Colfax, Barrie, Helendale, Sheyenne, Viking, Garborg, Freeman, West End, Homestead, Barney, Antelope, Danton, Mansen, Dexter, Wyndmere, Village of Wyndmere, Belford, Liberty, Grove, Brightwood, City of Hankinson, Elma, Duerr, City of Lidgerwood, Moran and Grant, in the County of Richland, and be entitled to one senator and two representatives.

(38) The Thirty-eighth District shall consist of the townships of Weimer, Noltimier, Alta, Oriska, Springvale, Cuba, Green, Heman, Mansfield, Meadow Lake, Svea, Scandia, Norma, Binghampton, Raritan, Thordenskjold, Oakhill, Spring Creek, Rosebud, Greenland, Village of Litchville, Village of Nome, township one hundred forty, range sixty-one; township one hundred thirty-nine, range fifty-eight; and township one hundred thirty-eight, range fifty-eight, in the County of Barnes, and be entitled to one senator and one representative.

(39) The Thirty-ninth District shall consist of the Counties of Billings, Bowman, Slope and Golden Valley, and be entitled to one senator and three representatives.

(40) The Fortieth District shall consist of the Counties of Burke and Divide, and be entitled to one senator and three representatives.

(41) The Forty-first District shall consist of the County of McKenzie, and be entitled to one senator and two representatives.

(42) The Forty-second District shall consist of the County of Pierce, and be entitled to one senator and two representatives.

(43) The Forty-third District shall consist of the County of Renville, and be entitled to one senator and one representative.

(44) The Forty-fourth District shall consist of the County of Mountrail, and be entitled to one senator and two representatives.

(45) The Forty-fifth District shall consist of the County of Williams, and be entitled to one senator and three representatives.

(46) The Forty-sixth District shall consist of the County of McLean, and be entitled to one senator and three representatives.

(47) The Forty-seventh District shall consist of Grant and Sioux Counties, and be entitled to one senator and two representatives.

(48) The Forty-eighth District shall consist of the Counties of Mercer, Oliver and Dunn, and be entitled to one senator and three representatives.

(49) The Forty-ninth District shall consist of the Counties of Adams and Hettinger, and be entitled to one senator and two representatives.

Approved March 11, 1931.

## APPROPRIATIONS

### CHAPTER 8

(H. B. No. 30—Committee on Appropriations.)

#### ARTESIAN WATERS

An Act making an appropriation for the purpose of carrying out the provisions of Sections 2790b1 to 2790b8, inclusive, of the Supplement to the 1913 Compiled Laws of North Dakota, as amended by Chapter 88, Session Laws of 1927, relating to preservation and control of the artesian waters of the State.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$2,500.00, or so much thereof as may be necessary, to carry out the provisions of Sections 2790b1 to 2790b8, inclusive, of the Supplement to the 1913 Compiled Laws of North Dakota, as amended by Chapter 88, Session Laws of 1927, relating to preservation and control of the artesian waters of this state, for the biennium beginning July 1st, 1931, and ending June 30th, 1933.

Approved March 2, 1931.

CHAPTER 9

(H. B. No. 19—Committee on Appropriations.)

BEE DISEASES

An Act making an appropriation for the inspection and eradication of bee diseases, under the provisions of Chapter 140, Session Laws of 1923, the same being Sections 2790a1-2790a18 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$3,000.00, or so much thereof as may be necessary, to defray the expenses of the commissioner of agriculture and labor, or his agents, in carrying out the provisions of Chapter 140, Session Laws of 1923, the same being Sections 2790a1-2790a18 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota for the biennium beginning July 1st, 1931, and ending June 30th, 1933.

Approved February 13, 1931.

CHAPTER 10

(H. B. No. 38—Committee on Appropriations.)

BOARD OF ADMINISTRATION—CHILD WELFARE

An Act making an appropriation for use by the Board of Administration in administering child welfare laws.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$12,340.00, or so much thereof as may be necessary, for use by the board of administration in performing the duties imposed upon it by law in connection with the administration of the child welfare laws of this State, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salary .....	\$ 6,000.00
Clerkhire .....	2,640.00
Postage .....	150.00
Office supplies .....	100.00
Furniture and fixtures .....	150.00
Printing .....	150.00
Miscellaneous .....	650.00
Travel expense .....	2,500.00
Total .....	\$12,340.00

Approved March 9, 1931.

## CHAPTER 11

(H. B. No. 43—Committee on Appropriations.)

## BOARD OF AUDITORS

An Act making an appropriation to the board of auditors for the purpose of carrying out the provisions of Section 369 of the Compiled Laws of the State of North Dakota for the year 1913, as amended and re-enacted by Chapter 226, Laws of 1915, and as amended and re-enacted by the Initiated Law approved November 2nd, 1920, and as provided for in Chapter 143, Laws of 1923, the same being Sections 369 and 369b 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. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$24,000.00, or so much thereof as may be necessary to the state board of auditors for the purpose of examining and auditing the accounts, books and vouchers of the state treasurer, departments and commissions and of all industrial institutions of this state, and for the purpose of ascertaining the assets and liabilities of the same as provided for in Section 369 of the Compiled Laws of the State of North Dakota for the year 1913, as amended and re-enacted by Chapter 226, Laws of 1915, and as amended and re-enacted by the Initiated Law approved November 2nd, 1920, and as provided for in Chapter 143, Laws of 1923, the same being Sections 369 and 369b of the Supplement to the 1913 Compiled Laws of North Dakota, for the biennium beginning July 1st, 1931, and ending June 30th, 1933.

Approved March 7, 1931.

## CHAPTER 12

(H. B. No. 15—Committee on Appropriations.)

## BONDS STATE OFFICIALS

An Act making an appropriation for the purpose of paying premiums on bonds of state officials as provided by Chapter 175, Session Laws of 1917, the same being Section 663A1 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$2,500.00, for the biennium, or so much thereof as may be necessary to pay the premiums on bonds of state officials, bonded under the provisions of Chapter 175, Session Laws of 1917, the same being Section 663a1 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota.

Approved February 13th, 1931.

## CHAPTER 13

(H. B. No. 26—Committee on Appropriations.)

## APPROPRIATION—BOVINE TUBERCULOSIS

An Act making an appropriation for the purpose of indemnifying owners of animals infected with bovine tuberculosis and to pay expenses in connection therewith.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$60,000.00 or so much thereof as may be necessary for the purpose of indemnifying the owners of animals infected with bovine tuberculosis which animals have been destroyed, and to pay expenses in connection therewith, as provided in Sections 2699 and 2710, inclusive, of the Compiled Laws of North Dakota for the year 1913, and amendments thereto, for the biennium beginning July 1st, 1931, and ending June 30th, 1933.

Approved March 4, 1931.

## CHAPTER 14

(S. B. No. 18—Committee on Appropriations.)

## BOYS' AND GIRLS' CLUB WORK STATE FAIRS

An Act making an appropriation for the payment of the expenses to be incurred by boys' and girls' club work at state fairs.

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

§ 1. APPROPRIATION.] The sum of one thousand dollars is hereby appropriated annually for the biennium beginning July 1, 1931, and ending June 30, 1933, out of any money in the state treasury not otherwise appropriated for the use and benefit of the boys' and girls' club premiums and expenses only at the final annual achievement contest at the state fairs. The appropriation herein mentioned shall be expended under the direction of the extension department of the Agricultural College.

Approved January 31, 1931.

## CHAPTER 15

(H. B. No. 34—Bohnsack.)

## RED RIVER BRIDGE STATE HIGHWAY NO. 7

An Act to appropriate the sum of thirty-five thousand dollars (\$35,000.00) from any moneys in the state highway fund for the purpose of aiding in the construction of a bridge across the Red River of the North between the eastern terminus of State Highway No. 7 in Traill County, North Dakota, and Minnesota Highway No. 6 also known as Federal Aid Road No. 168 in Norman County,

Minnesota, under the provisions of Sections 1952a1 and 1952a2 of the 1925 Supplement to the Compiled Laws of 1913 as amended and re-enacted by Chapter 161 of the Session Laws of 1927, and re-enacted by Chapter 140, Laws of 1929, and directing the state highway commission to construct such bridge and to perform all necessary preliminary acts.

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

§ 1. There is hereby appropriated out of any moneys in the state highway fund, pursuant to the provisions of Paragraph 6c of Section 2976t15 of the 1925 Supplement to the Compiled Laws of North Dakota for the year 1913, the sum of thirty-five thousand dollars (\$35,000.00) or so much thereof as may be necessary between the date of the passage and approval of this act and June 30, 1933, inclusive, for the purpose of aiding in the construction of the sub-structure, super-structure and structural approaches of a bridge across the Red River of the North, between the eastern terminus of the state highway in Traill County, North Dakota, known as state highway No. 7 and state highway No. 6 in Norman County, Minnesota, also designated as federal aid road No. 168, so as to join and connect the said state highway No. 7 in Traill County, North Dakota, and state highway No. 6 in Norman County, Minnesota, under the provisions of Sections 1952a1 and 1952a2 of the 1925 Supplement to the Compiled Laws of the State of North Dakota for the year 1913, as amended and re-enacted by Chapter 161 of the Session Laws of North Dakota for 1927, and re-enacted by Chapter 140, Laws of 1929.

And, the state highway commission is hereby authorized and empowered, and forthwith directed to select a suitable bridge site as hereinbefore provided, to make plans and specifications for such bridge, to request federal aid for its construction, to request bids, award contracts and execute the same and authorize and make payments for the cost of such bridge in the same manner and by the same procedure as governs the state highway commission in the improvement of a state highway.

And the said state highway commission is further authorized and directed forthwith to extend, designate, locate and improve the necessary road as part of the state highway system leading to such bridge aforesaid so that such bridge shall be and constitute part of the said state highway system.

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

Approved March 7, 1931.

## CHAPTER 16

(S. B. No. 7—Murphy.)

## BRIDGE, STATE HIGHWAY NO. 17 WALSH COUNTY

An Act to amend and re-enact Chapter 19 of the Session Laws of 1929, the same being an Act to appropriate the sum of thirty-five thousand dollars (\$35,000.00) from any moneys in the state highway fund for the purpose of aiding in the construction of a bridge across the Red River of the North at a point opposite or near State Highway No. 17 extended eastward to intersect such river in Walsh County, North Dakota, and Marshall County, Minnesota, under the provisions of Chapter 73 of the Laws of North Dakota for the year 1919 (Sections 1952a1 and 1952a2 of the 1925 Supplement to the Compiled Laws of 1913) as amended and re-enacted by Chapter 161, Laws of 1927, and directing the state highway commission to construct such bridge and do all necessary preliminary acts.

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

§ 1. AMENDMENT.] Chapter 19 of the Session Laws of 1929 is hereby amended and re-enacted to read as follows:

There is hereby appropriated out of any moneys in the state highway fund, under Paragraph 2a of Section 11 of Chapter 44 of the Laws of the Special Session of the 16th Legislative Assembly of the State of North Dakota for the year 1919, (Paragraph C of Section 2976t15 of the 1925 Supplement to the Compiled Laws for the year 1913), the sum of thirty-five thousand dollars (\$35,000.00), or as much thereof as may be necessary for the purpose of aiding in the construction of the substructure, superstructure and structural approaches of a bridge across the Red River of the North at a point opposite or near state highway No. 17 extended eastward to intersect such river in Walsh County, North Dakota, and Marshall County, Minnesota, under the provisions of Section 1 of Chapter 73 of the Laws of North Dakota for the year 1919, as amended and re-enacted by Chapter 161 of Session Laws for 1927 (Sections 1952a1 and 1952a2 of the 1925 Supplement to the Compiled Laws of the State of North Dakota for the year 1913).

And, the state highway commission is hereby authorized and empowered, and forthwith directed to select a suitable bridge site as hereinbefore provided, to make plans and specifications for such bridge, to secure the approval thereof by the proper federal authorities, to request federal aid for its construction, to request bids, award contracts and execute the same and authorize and make payments for the cost of such bridge in the same manner and by the same procedure as governs the said state highway commission in the improvement of a state highway.

And, the said state highway commission is further authorized and directed forthwith to extend, designate, locate and improve



the necessary road as part of the state highway system leading to such bridge aforesaid so that such bridge shall be and constitute part of the said state highway system.

§ 2. EMERGENCY.] Whereas the appropriation of like amount made by Chapter 19 of the Session Laws of North Dakota for the year 1929 for this purpose, has not been extended, by reason of the inability of Minnesota and North Dakota officials to agree on the location of any such bridge structure; and, whereas this appropriation supersedes the former appropriation for this purpose; and, whereas, it is anticipated that the place of erection of such structure may be agreed upon within a very short time and before the first day of July, 1931; therefore, an emergency is declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved February 5th, 1931.

## CHAPTER 17

(H. B. No. 45—Bishop and Wilson.)

### BRIDGE LITTLE MISSOURI, SLOPE COUNTY

An Act to appropriate the sum of twenty-five thousand dollars (\$25,000) from any moneys in the state highway fund for the purpose of aiding in the construction of a bridge across the Little Missouri River in Slope County, North Dakota, located on State and Federal Highway No. Twenty-one (21) between Amidon and the present designated State and Federal Highway Number Sixteen (16), under the provisions of Chapter 73 of the Laws of North Dakota for the year 1919 (Sections 1952a1 and 1952a2 of the 1925 Supplement to the compiled Laws of 1913), as amended and re-enacted by Chapter 161, Laws 1927, as amended and re-enacted by Section 140, Laws of 1929, and directing the state highway commission FORTHWITH to construct such bridge and do all necessary preliminary acts.

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

§ 1. There is hereby appropriated out of any moneys in the state highway fund under Paragraph 2a of Section 11 of Chapter 44 of the Laws of the Special Session of the 16th Legislative Assembly of the State of North Dakota for the year 1919, (Paragraph C of Section 2976t15 of the 1925 Supplement to the Compiled Laws for the year 1913), the sum of twenty-five thousand dollars (\$25,000.00), or as much thereof as may be necessary between the date of the passage and approval of this act, and June 30th, 1933, inclusive, for the purpose of aiding in the construction of the sub-structure, superstructure and structural approaches of a bridge across the Little Missouri in Slope County, North Dakota, located on state and federal highway No. twenty-one (21) between Amidon and the present designated state and federal highway number sixteen (16), under the provisions of Chapter 73 of the Laws of North

Dakota for the year 1919 (Sections 1952a1 and 1952a2 of the 1925 Supplement to the Compiled Laws for the year 1913) as amended and re-enacted by Chapter 161 of the Session Laws of 1927, as amended and re-enacted by Section 140, Laws of 1929.

And the state highway commission is hereby authorized and empowered and FORTHWITH directed to select a suitable bridge site as hereinbefore provided, to make soundings, plans and specifications for such bridge, to secure the approval thereof by the proper federal authorities, to request federal aid for its construction, to request bids, award contracts and execute the same, and authorize and make payments for the cost of such bridge in the same manner and by the same procedure as governs the state highway commission in the improvement of a state highway.

And, the said state highway commission is further authorized and directed FORTHWITH to extend, designate, locate and improve the necessary road or roads as part of the state and federal highway system leading to such bridge aforesaid, so that such bridge shall be and constitute a part of the said state and federal highway system and shall be entitled to the allotment of federal aid in its construction and shall take all necessary steps to have such roads leading to such bridge incorporated in the federal aid system of this state.

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

Approved March 7, 1931.

## CHAPTER 18

(H. B. No. 66—Isaak.)

### BIG BEND BRIDGE

An Act to appropriate the sum of one hundred and seventy-seven thousand dollars (\$177,000.00) from any moneys in the state highway fund for the purpose of aiding in the construction of a bridge across the Missouri River between McLean County and Mercer County, North Dakota, under the provisions of Chapter 73 of the Laws of North Dakota for the year 1919 (Sections 1952a1 and 1952a2 of the 1925 Supplement to the Compiled Laws of 1913), as amended and re-enacted by Chapter 161, Laws of 1927, as amended and re-enacted by Chapter 140, Laws of 1929, and directing the state highway commission to construct such bridge and do all necessary preliminary acts.

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

§ 1. There is hereby appropriated out of any moneys in the state highway fund, under Paragraph 2a of Section 11 of Chapter 44 of the Laws of the Special Session of the 16th Legislative Assembly of the State of North Dakota for the year 1919, (Paragraph C of Section 2976t15 of the 1925 Supplement to the Compiled

Laws for the year 1913), the sum of one hundred and seventy-seven thousand dollars (\$177,000.00) or as much thereof as may be necessary between the date of the passage and approval of this act and June 30th, 1933, inclusive, for the purpose of aiding in the construction of the substructure, superstructure and structural approaches of a bridge across the Missouri River at a point south and at or near Garrison, North Dakota, between McLean County and Mercer County, North Dakota, under the provisions of Section 1 of Chapter 73 of the Laws of North Dakota for the year 1919, as amended and re-enacted by Chapter 161 of the Session Laws for 1927 (Sections 1952a1 and 1952a2 of the 1925 Supplement to the Compiled Laws of the State of North Dakota for the year 1913, as amended and re-enacted by Chapter 140, Laws of 1929, and according to the preliminary survey made as provided by Chapter 11 of the Session Laws of 1929 entitled "Big Bend Bridge, Preliminary Survey."

And the state highway commission is hereby authorized and empowered, and forthwith directed to select a suitable bridge site as hereinbefore provided, to make plans and specifications for such bridge, to secure the approval thereof by the proper federal authorities, to request federal aid for its construction, to request bids, award contracts and execute the same and authorize and make payments for the cost of such bridge in the same manner and by the same procedure as governs the said state highway commission in the improvement of a state highway.

And the said state highway commission is further authorized and directed forthwith to extend, designate, locate and improve the necessary road or roads as part of the state highway system leading to such bridge aforesaid so that such bridge shall be and constitute part of the said state highway system and shall be entitled to the allotment of federal aid in its construction and shall take all necessary steps to have such roads leading to such bridge incorporated in the federal aid system of this state.

Approved March 13, 1931.

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## CHAPTER 19

(S. B. No. 32—Cain.)

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### ELBOWOODS BRIDGE

An Act to appropriate the sum of ten thousand dollars (\$10,000) from any moneys in the state highway fund for the purpose of paying the engineering costs in connection with the construction of a bridge across the Missouri River at or near Elbowoods, North Dakota, on present designated state and federal highway number eight (No. 8) at or near the intersection of the boundaries of McLean, Mercer and Dunn Counties, North Dakota, under the provisions of Chapter Seventy-three (73) of the Laws of North Dakota for the year 1919 (Sections 1952a1 and 1952a2 of the 1925 Supplement to the Compiled Laws of 1913) as amended and re-enacted by Chapter 161,

Laws of 1927, as amended and re-enacted by Chapter 140 of the Laws of 1929; and directing the state highway commission FORTHWITH to construct such bridge and do all necessary preliminary acts therein.

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

§ 1. There is hereby appropriated out of any moneys in the state highway fund, under Paragraph 2a of Section 11 of Chapter 44 of the Laws of the Special Session of the 16th Legislative Assembly of the State of North Dakota for the year 1919, (Paragraph C of Section 2976t15 of the 1925 Supplement to the Compiled Laws for the year 1913), the sum of ten thousand dollars (\$10,000) or as much thereof as may be necessary, for the purpose of paying the engineering costs in connection with the construction of the substructure, superstructure and structural approaches of a bridge across the Missouri River at or near Elbowoods, North Dakota, on present designated state and federal highway number eight (No. 8) at or near the intersection of the boundaries of McLean, Mercer and Dunn Counties, North Dakota, under the provisions of Section 1 of Chapter 73 of the Laws of North Dakota for the year 1919, (Sections 1952a1 and 1952a2 of the 1925 Supplement to the Compiled Laws of 1913), as amended and re-enacted by Chapter 161 of Session Laws for 1927, as amended and re-enacted by Chapter 140 of the Laws of 1929.

And, the state highway commission is hereby authorized and empowered, and FORTHWITH directed to select a suitable bridge site as hereinbefore provided, to make soundings, plans and specifications for such bridge, to secure the approval thereof by the proper federal authorities, to request the maximum amount of federal aid allowance for its construction, which amount shall be deemed to be one hundred per cent allotment of federal aid, to request bids, award contracts and execute the same and authorize and make payments for the cost of such bridge in the same manner and by the same procedure as governs the said state highway commission in the improvement of a state and federal highway.

And the said state highway commission is further authorized and directed FORTHWITH to extend, designate, locate and improve the necessary road or roads as part of the state and federal highway system leading to such bridge aforesaid so that such bridge shall be and constitute part of the said state and federal highway system and shall be entitled to the allotment of federal aid in its construction and shall take all necessary steps to have such roads leading to such bridge incorporated in the federal aid system of this state.

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

Approved February 19, 1931.

## CHAPTER 20

(S. B. No. 101—Miller.)

**BRIDGE SURVEY BETWEEN SIOUX AND EMMONS COUNTIES**

An Act to appropriate the sum of \$3,000.00 from any moneys in the state highway fund, for the purpose of making a preliminary survey and sounding of the Missouri River near Cannon Ball, North Dakota, to determine the advisability and feasibility of constructing a bridge across said river, under the provisions of Subsection C, of Section 2976t15 of the Supplement to the Compiled Laws of 1913.

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

§ 1. There is hereby appropriated out of any moneys in the state highway fund under Subsection C of Section 2976t15 of the Supplement to the Compiled Laws of 1913, the sum of \$3,000.00, or so much thereof as may be necessary for the purpose of making a preliminary survey and sounding of the Missouri River and approaches thereto, between the mouth of the Cannon Ball River and a point where said Missouri River intersects the south line of township 132 west, of range 79 north of the fifth principal meridian, for the purpose of determining the advisability and feasibility of building and constructing a bridge across said river between the Counties of Sioux and Emmons.

Approved March 11, 1931.

## CHAPTER 21

(S. B. No. 52—Committee on Appropriations.)

**BUDGET**

An Act to appropriate money for the expenses of the executive, legislative and judicial departments of the state government, and for public schools, specifying the amount and time for which such appropriations shall be available, and repealing all acts, or parts of acts, in so far as the same shall relate to appropriations conflicting herewith or to appropriations for the same matters or purposes provided for herein.

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

§ 1. APPROPRIATIONS FOR THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL DEPARTMENTS OF THE STATE GOVERNMENT AND FOR PUBLIC SCHOOLS.] The sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated out of any moneys in the state treasury not otherwise appropriated, for the purposes specified in the following sections of this act.

§ 2. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.] Unless otherwise specifically stated, the appropriations herein made shall be available for the

expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1st, 1931, and ending June 30th, 1933.

§ 3. APPROPRIATIONS.]

Sub-division 1.

EXECUTIVE OFFICE

Salary—Governor .....	\$ 10,000.00
Clerkhire:	
Secretary to the Governor .....	5,600.00
Stenographer .....	3,600.00
Postage .....	350.00
Office Supplies .....	200.00
Furniture and Fixtures .....	200.00
Printing .....	400.00
Miscellaneous .....	1,200.00
Travel Expense .....	1,500.00
Contingent .....	600.00
Governor's Conference .....	300.00
Great Lakes-St. Lawrence Deep Waterway Project.....	1,500.00
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Total .....	\$ 25,450.00

Sub-division 2.

LIEUTENANT GOVERNOR

Salary .....	\$ 2,000.00
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Sub-division 3..

SUPREME COURT

Salary—Five Justices and Clerk of Court .....	\$ 60,000.00
Clerkhire:	
Deputy Clerk .....	3,000.00
Stenographers to Justices .....	13,200.00
Postage .....	725.00
Office Supplies .....	400.00
Furniture and Fixtures .....	800.00
Printing .....	550.00
Miscellaneous .....	600.00
Travel Expense .....	500.00
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Total .....	\$ 79,775.00

Sub-division 4.

SUPREME COURT REPORTER AND STATE LAW  
LIBRARIAN

Salary .....	\$ 5,600.00
Stenographic Services .....	600.00
Postage .....	200.00
Office Supplies .....	100.00

Furniture and Fixtures .....	300.00
Printing, Bind Books and Periodicals .....	250.00
Miscellaneous .....	200.00
Publishing North Dakota Supreme Court Reports.....	6,000.00
Purchase of Books and Periodicals for Law Library.....	5,000.00
Total .....	\$ 18,250.00

## Sub-division 5.

## JUDGES OF DISTRICT COURTS

Salary—Fifteen Judges .....	\$120,000.00
Miscellaneous expenses while holding court outside the county in which the judges reside, and while serving on the supreme bench. (To become available upon the passage and approval of this act) .....	20,000.00
Total .....	\$140,000.00

## Sub-division 6.

## SECRETARY OF STATE

Salary .....	\$ 6,000.00
Clerkhire:	
Deputy .....	5,600.00
Chief Clerk and Bookkeeper .....	3,600.00
Stenographers .....	6,000.00
Recording Clerks .....	8,000.00
Extra Clerkhire During Elections and Legislative Assemblies .....	1,000.00
Postage .....	4,000.00
Office Supplies .....	1,000.00
Furniture and Fixtures .....	600.00
Printing and Lithographing .....	3,600.00
Miscellaneous .....	2,000.00
Travel Expense .....	500.00
Manual .....	2,000.00
Total .....	\$ 43,900.00

## Sub-division 7.

## SECRETARY OF STATE—PUBLIC PRINTING

Legal Notices .....	\$ 400.00
Publishing of Abstracts of Votes, Three Elections .....	1,250.00
Authenticated Edition Session Laws 1931 .....	3,500.00
Publicity Pamphlet .....	10,000.00
Postage for Publicity Pamphlet .....	5,000.00
Popular Edition Session Laws 1931, available April 1, 1931 .....	1,200.00

Presidential Primary Election and Other Notices and Presidential Primary Ballots .....	2,500.00
Session Laws 1927-1929 .....	1,500.00
	\$ 25,350.00

Sub-division 8.

STATE AUDITOR

Salary .....	\$ 6,000.00
Clerkhire:	
Deputy .....	5,600.00
Chief Clerk and Bookkeeper .....	4,400.00
Voucher and Audit Clerk .....	3,600.00
Bookkeeper .....	3,600.00
Bookkeeper and Warrant Clerk .....	3,600.00
Voucher and Warrant Clerk .....	3,000.00
Warrant Clerk .....	3,000.00
Gasoline Tax Clerks .....	11,700.00
Stenographer and Extra Clerkhire .....	2,640.00
Postage (to become available upon the passage and ap- proval of this act) .....	2,800.00
Office Supplies .....	500.00
Furniture and Fixtures (to become available upon the passage and approval of this act) .....	1,900.00
Printing and Lithographing .....	6,000.00
Miscellaneous .....	1,000.00
Travel Expense .....	2,500.00
Supplies, Departments and Counties .....	1,000.00
Lists, New Taxable Lands .....	200.00
Gasoline Tax Law Enforcement, Adjusting County Care Accounts and Special Audit Work .....	3,000.00
	\$ 66,040.00

Sub-division 9.

STATE TREASURER

Salary .....	\$ 6,000.00
Clerkhire:	
Deputy .....	5,600.00
Chief Clerk .....	4,000.00
Cashier .....	3,600.00
Bookkeepers (two) .....	7,200.00
Receipt Clerk .....	3,000.00
Farm Loan Clerk .....	3,000.00
Cigarette Revenue Clerks (two) .....	6,000.00
Stenographer .....	2,640.00
Extra Clerkhire .....	600.00
Postage .....	4,400.00
Office Supplies .....	500.00



Furniture and Fixtures .....	500.00
Printing .....	2,000.00
Miscellaneous .....	500.00
Travel Expense .....	500.00
Total .....	\$ 50,040.00

## Sub-division 10.

## ATTORNEY GENERAL

Salary .....	\$ 7,200.00
Clerkhire (four stenographers) .....	13,000.00
Four Assistant Attorneys General .....	26,000.00
Special Assistant Attorneys General .....	12,000.00
L. R. Bitney Service Counsel Rate Cases .....	1,500.00
Commerce Counsel .....	7,200.00
Postage .....	1,000.00
Office Supplies .....	600.00
Furniture and Fixtures .....	500.00
Printing .....	1,500.00
Miscellaneous .....	1,500.00
Travel Expense .....	3,000.00
Cigarette Law Enforcement Fund .....	10,000.00
Miscellaneous Court Cases .....	4,000.00
Library .....	1,000.00
Total .....	\$ 90,000.00

## Sub-division 11.

## DEPARTMENT OF AGRICULTURE AND LABOR

Salary .....	\$ 6,000.00
Clerkhire:	
Deputy .....	5,600.00
Chief Clerk .....	3,600.00
Stenographers .....	2,640.00
Postage .....	650.00
Office Supplies .....	375.00
Furniture and Fixtures .....	300.00
Printing .....	3,000.00
Miscellaneous .....	600.00
Travel Expense .....	1,000.00
Total .....	\$ 23,765.00

## Sub-division 12.

DEPARTMENT OF AGRICULTURE AND LABOR  
DAIRY DIVISION

Salary—Dairy Commissioner .....	\$ 5,600.00
Clerkhire:	
Assistant Dairy Commissioners .....	12,000.00

Chief Clerk and Secretary .....	3,000.00
Official Tester .....	2,640.00
Stenographers .....	3,640.00
Postage .....	1,500.00
Office Supplies .....	500.00
Furniture and Fixtures .....	600.00
Printing .....	1,200.00
Miscellaneous .....	700.00
Travel Expense .....	13,500.00
Auto Exchange .....	2,000.00
 Total .....	 \$ 46,880.00

Sub-division 13.

INSURANCE DEPARTMENT

Salary .....	\$ 6,000.00
Clerkhire:	
Deputy .....	5,600.00
Actuary-Examiner .....	6,000.00
Bookkeeper .....	3,000.00
Chief Clerk and Stenographer .....	2,640.00
Postage .....	1,200.00
Office Supplies .....	300.00
Furniture and Fixtures .....	950.00
Printing .....	6,000.00
Miscellaneous .....	750.00
Travel Expense .....	750.00
 Total .....	 \$ 33,190.00

Sub-division 14.

BOARD OF RAILROAD COMMISSIONERS

Salary—Three Commissioners .....	\$ 18,000.00
Clerkhire:	
Secretary .....	5,000.00
Chief Clerk .....	3,600.00
Traffic Expert .....	7,200.00
Assistant Traffic Expert .....	4,200.00
Reporter .....	6,000.00
Chief Engineer .....	7,200.00
Assistant Engineer .....	4,000.00
Accountant .....	5,400.00
Stenographers .....	14,000.00
Postage .....	2,000.00
Office Supplies .....	2,000.00
Furniture and Fixtures .....	1,000.00
Printing and Lithographing .....	3,000.00
Miscellaneous .....	2,000.00

Travel Expense .....	12,000.00
Expense handling cases before Interstate Commerce Commission .....	12,000.00
Railway and Utilities Commissioner .....	2,000.00
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Total .....	\$110,600.00

## Sub-division 15.

BOARD OF RAILROAD COMMISSIONERS  
ELEVATOR DIVISION

## Clerkhire:

Chief Elevator Accountant .....	\$ 5,600.00
Assistant Elevator Accountant .....	4,000.00
Second Assistant Elevator Accountant .....	3,000.00
Stenographers and Clerks .....	6,600.00
Postage .....	1,000.00
Office Supplies .....	500.00
Furniture and Fixtures .....	750.00
Printing and Lithographing .....	1,500.00
Miscellaneous .....	750.00
Travel Expense .....	6,000.00
Auto Exchange (to become available upon the passage and approval of this act) .....	500.00
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Total .....	\$ 30,200.00

## Sub-division 16.

DEPARTMENT OF PUBLIC INSTRUCTION

Salary .....	\$ 6,000.00
Clerkhire:	
Deputy .....	5,600.00
Assistants .....	4,000.00
Chief Clerk .....	3,000.00
Stenographers and Clerk .....	7,680.00
Extra Clerkhire .....	400.00
Postage .....	2,000.00
Office Supplies .....	800.00
Furniture and Fixtures .....	400.00
Printing .....	18,000.00
Miscellaneous .....	800.00
Travel Expense .....	2,500.00
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Total .....	\$ 51,180.00

Sub-division 17.

DEPARTMENT OF PUBLIC INSTRUCTION  
STATE AID AND EXAMINATION

Salary—Director of Secondary Education .....	\$ 5,000.00
Salary—Director of Rural Education .....	5,000.00
Clerkhire:	
High School Clerk .....	3,000.00
Stenographer .....	2,400.00
Travel Expense:	
Director of Secondary Education .....	2,000.00
Director of Rural Education .....	2,000.00
Expense Conducting Eighth Grade and High School Examinations .....	8,000.00
State Aid:	
For High Schools .....	170,000.00
For Teachers Institute Work .....	10,600.00
For Rural, Graded and Consolidated Schools.....	450,000.00
For County Agricultural Schools .....	22,000.00
 Total .....	 <u>680,000.00</u>

Sub-division 18.

LAND COMMISSIONER

Salary .....	\$ 6,000.00
Clerkhire:	
Deputy .....	5,600.00
Office Deputy .....	4,800.00
Bookkeeper .....	3,600.00
Cashier .....	3,600.00
Manager Bond and Mortgage Department .....	3,600.00
Collection Manager .....	4,000.00
Leasing Clerk .....	3,000.00
Field Agent .....	4,000.00
Patent Clerk .....	3,000.00
Four Stenographers .....	11,520.00
Postage .....	3,000.00
Office Supplies .....	300.00
Furniture and Fixtures .....	400.00
Printing, Lithographing and Engraving .....	2,500.00
Miscellaneous .....	400.00
Travel Expense .....	8,000.00
Leasing Unsold Land .....	3,000.00
Premium on Bonds .....	300.00
Field Inspection and Supervision Leased and Unleased School Lands .....	15,000.00
 Total .....	 <u>\$ 85,620.00</u>

## Sub-division 19.

## STATE EXAMINER

Salary .....	\$ 10,000.00
Clerkhire:	
Office Deputy .....	7,000.00
Assistant Office Deputy .....	4,200.00
Chief Clerk and Stenographers .....	8,600.00
Six Deputy Examiners .....	30,000.00
Four County, City and Institution Examiners .....	20,000.00
Postage .....	2,000.00
Office Supplies .....	700.00
Furniture and Fixtures .....	380.00
Printing .....	1,600.00
Miscellaneous .....	1,500.00
Travel Expense .....	23,000.00
Bonds for Examiners .....	1,600.00
 Total .....	 \$110,580.00

## Sub-division 20.

## STATE SECURITIES COMMISSION

Salary—Executive Officer .....	\$ 5,600.00
Stenographer .....	1,200.00
Postage .....	300.00
Office Supplies .....	150.00
Furniture and Fixtures .....	150.00
Printing .....	300.00
Miscellaneous .....	500.00
Travel Expense .....	1,000.00
Investigations .....	1,000.00
Premium on Bond .....	50.00
Dues National Association .....	100.00
 Total .....	 \$ 10,350.00

## Sub-division 21.

## STATE TAX COMMISSIONER

Salary .....	\$ 8,000.00
Clerkhire:	
Deputy Tax Commissioner .....	7,200.00
Income Tax Deputy .....	4,800.00
Income Tax Field Auditor .....	5,800.00
Inheritance Tax Deputy .....	5,600.00
Cashier and Bookkeeper .....	3,000.00
Statistical Clerk .....	3,000.00
Abatement Clerk .....	3,000.00
Corporation Clerk .....	3,000.00
Stenographer .....	3,000.00
Filing Clerk .....	2,640.00

Income Tax Clerk .....	2,640.00
Extra Clerkhire .....	700.00
Postage .....	3,400.00
Office Supplies .....	800.00
Furniture and Fixtures .....	600.00
Printing .....	6,400.00
Miscellaneous .....	1,000.00
Travel Expense .....	4,000.00

GAS TAX DEPARTMENT

Postage .....	3,200.00
Printing .....	2,000.00
Clerkhire .....	15,000.00
Furniture and Fixtures .....	2,400.00
Office Supplies .....	400.00
Miscellaneous .....	300.00

Total ..... \$ 91,880.00

Sub-division 22.

BOARD OF ADMINISTRATION

Salary—Three Members ..... \$ 18,000

Clerkhire:

Executive Secretary .....	5,600.00
Chief Clerk .....	3,600.00
Stenographer .....	1,380.00
Auditor .....	5,400.00
Assistant Auditor .....	3,600.00
Purchasing Agent .....	4,800.00
Voucher Clerk .....	3,000.00
Supply Clerk .....	2,400.00
Postage .....	1,000.00
Office Supplies .....	800.00
Furniture and Fixtures .....	500.00
Printing .....	2,000.00
Miscellaneous .....	2,000.00
Travel Expense .....	9,500.00

Total ..... \$ 63,580.00

Sub-division 23.

STATE LIBRARY COMMISSION

Salary ..... \$ 5,000.00

Clerkhire:

Chief Traveling Librarian .....	3,600.00
Reference Librarian .....	3,000.00
Stenographer .....	2,400.00
Clerk .....	1,800.00
Clerk (part time) .....	600.00

Postage .....	700.00
Office Supplies .....	400.00
Furniture and Fixtures .....	200.00
Printing .....	300.00
Miscellaneous .....	600.00
Travel Expense .....	600.00
Aids to Libraries .....	200.00
Books .....	3,500.00
Preparation of Books .....	200.00
Binding .....	500.00
 Total .....	 \$ 23,600.00

## Sub-division 24.

## STATE ENGINEER

Salary .....	\$ 6,000.00
Clerkhire:	
Stenographers .....	2,700.00
Postage .....	100.00
Office Supplies .....	400.00
Furniture and Fixtures .....	100.00
Printing .....	300.00
Miscellaneous .....	500.00
Travel Expense .....	3,000.00
Field Assistants .....	3,000.00
Hydrographic Survey .....	6,000.00
 Total .....	 \$ 22,100.00

## Sub-division 25.

## ADJUTANT GENERAL

Salary .....	\$ 6,000.00
Clerkhire:	
U. S. Property and Disbursing Officer .....	4,800.00
One Clerk .....	3,000.00
Postage .....	100.00
Office Supplies .....	300.00
Furniture and Fixtures .....	300.00
Printing .....	200.00
Miscellaneous .....	50.00
Travel Expense .....	600.00
 Total .....	 \$ 15,350.00

## Sub-division 26.

## ADJUTANT GENERAL—RETURNED SOLDIERS FUND

Clerkhire:	
Chief Clerk .....	\$ 5,000.00
Clerk, Historical Section .....	3,360.00

Postage .....	300.00
Office Supplies .....	200.00
Furniture and Fixtures .....	200.00
Printing .....	200.00
Miscellaneous .....	50.00
Total .....	\$ 9,310.00

## Sub-division 27.

## STATE FIRE MARSHAL DEPARTMENT

Salary .....	\$ 5,000.00
Clerkhire:	
Chief Assistant .....	4,800.00
Deputy .....	3,000.00
Postage .....	300.00
Office Supplies .....	150.00
Furniture and Fixtures .....	50.00
Printing .....	300.00
Miscellaneous .....	900.00
Travel Expense .....	9,500.00
Fees to Fire Chiefs for Reporting Fires .....	500.00
Total .....	\$ 24,500.00

## Sub-division 28.

## STATE PRINTER

Salary .....	\$ 5,000.00
Clerkhire:	
Clerk and Stenographer .....	2,400.00
Extra Clerkhire During Session .....	200.00
Postage .....	200.00
Office Supplies .....	100.00
Furniture and Fixtures .....	100.00
Printing .....	300.00
Miscellaneous .....	300.00
Travel Expense .....	300.00
Total .....	\$ 8,900.00

## Sub-division 29.

## INDUSTRIAL COMMISSION

Clerkhire .....	\$ 3,000.00
Postage .....	600.00
Office Supplies .....	300.00
Furniture and Fixtures .....	300.00
Printing .....	1,100.00



Miscellaneous .....	700.00
Travel Expense .....	800.00
Total .....	\$ 6,800.00

## Sub-division 30.

## STATE BOARD OF PARDONS

Appropriation for per diem, travel expenses, clerkhire and miscellaneous items .....	\$ 1,000.00
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## Sub-division 31.

## TWENTY-THIRD LEGISLATIVE ASSEMBLY

Mileage and per diem, Members .....	\$ 57,000.00
Per Diem, Officers and Employees .....	23,000.00
Printing .....	25,000.00
Miscellaneous, Expenses and Supplies .....	7,500.00
Additional Expense, 22nd Legislative Session (to be available upon the passage and approval of this act) .....	10,650.00
Total .....	\$123,150.00

## Sub-division 32.

## STATE BUDGET BOARD

Per Diem and other expenses of every kind incurred by the State Budget Board as prescribed by Sections 710a1 to 710a6, inclusive, of the Supplement to the 1913 Compiled Laws of North Dakota and Chapter 93, Session Laws for the year 1929 .....	\$ 2,500.00
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## Sub-division 33.

## REWARD FOR APPREHENSION OF CRIMINALS

Reward for apprehension of criminals as prescribed by Chapter 200, Laws of 1917, the same being Section 11150 of the Supplement to the 1913 Compiled Laws of North Dakota .....	\$ 2,000.00
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## Sub-division 34.

## ARREST AND RETURN OF FUGITIVES FROM JUSTICE

For the arrest and return of fugitives from justice as provided by Section 11162, Compiled Laws of 1913, as amended and re-enacted by Chapter 160, Laws of 1915, the same being Section 11162 of the Sup- plement to the 1913 Compiled Laws of North Dakota .....	\$ 5,000.00
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§ 4. INTENT, REPEAL, PURPOSE AND CONSTRUCTION.] All acts and parts of acts that may be in conflict herewith are hereby repealed and if for any reason or cause any specific appropriation

for any item or set of items should be held by the court or courts, to be unconstitutional or illegal or otherwise unavailable for any cause, such holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

§ 5. EMERGENCY.] This act is necessary to the immediate preservation of the public peace, health and safety. The reason for this is that it contains the general appropriation and provides the means of continuing and maintaining the state government and to enable it to perform its proper functions, among which are the preservation of the public peace, health and safety of the people, and without the means provided for by this act the functions of the state government will be suspended. This act will therefore in its entirety go into instant operation upon its approval by the governor.

Approved March 12, 1931.

## CHAPTER 22

(H. B. No. 9—Committee on Appropriations.)

### BURIAL INMATES PENITENTIARY AND STATE TRAINING SCHOOL

An Act making an appropriation to pay the burial expenses of inmates of the penitentiary and state training school as prescribed by Chapter 12, Laws of 1915, the same being Section 11302 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$500.00, for the biennium, or so much thereof as may be necessary to pay the costs of burial of inmates of the penitentiary and state training school as prescribed by Chapter 12, Session Laws 1915, the same being section 11302 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota.

Approved January 29, 1931.

## CHAPTER 23

(H. B. No. 10—Committee on Appropriations.)

### BURIAL SOLDIERS, SAILORS, AND MARINES

An Act making an appropriation to pay expenses of erecting headstones over the graves of soldiers, sailors and marines of the United States War of the Rebellion.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the

sum of \$100.00, for the biennium, or so much thereof as may be necessary to pay for the expense of erecting headstones over the graves of soldiers, sailors and marines of the United States War of the Rebellion, as authorized under Sections 3181, 3182, 3183 and 3184 of the Compiled Laws of North Dakota for 1913.

Approved January 27, 1931.

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CHAPTER 24

(H. B. No. 42—Committee on Appropriations.)

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COAL MINE INSPECTION

An Act making an appropriation for the purpose of paying salary, clerkhire and general expenses of the department of coal mine inspection.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$9,675.00, or so much thereof as may be necessary to pay salary, clerkhire, per diem and general expenses in carrying out the provisions of Chapter 168, Session Laws 1919, the same being Sections 3084a1 to 3084a89 of the Supplement to the 1913 Compiled Laws of North Dakota, and amendments thereto, relative to mine inspection, for the biennium beginning July 1st, 1931, and ending

June 30th, 1933, to-wit:

Salary .....	\$5,000.00
Clerkhire .....	1,800.00
Examining Board: Per Diem and Expenses .....	200.00
Postage .....	100.00
Office Supplies .....	75.00
Printing .....	300.00
Miscellaneous .....	200.00
Travel Expense .....	2,000.00
Total .....	<hr/> \$9,675.00

Approved February 13, 1931.

## CHAPTER 25

(H. B. No. 59—Committee on Appropriations.)

## CONTINGENCY FUND

An Act making an appropriation to provide a state contingency fund to be placed at the disposal of the state emergency commission to be used as provided by Chapters 26 and 152, Session Laws of 1915, the same being Sections 283c1 and 283c6, inclusive, and Section 283c10 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. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$60,000.00, or so much thereof, as may be necessary for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to provide funds for the state emergency commission and which fund shall be known as the state contingency fund and be for the purposes authorized under Chapters 26 and 152, Session Laws of 1915, the same being Sections 283c1 to 283c6, inclusive, and Section 283c10 of the Supplement to the 1913 Compiled Laws of North Dakota.

Approved March 7, 1931.

## CHAPTER 26

(H. B. No. 29—Committee on Appropriations.)

## CORN SHOW

An Act making an appropriation to the North Dakota State Corn Show, agreeable with Sections 1866b1 to 1866b6, inclusive, of the 1925 Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$2,000.00 to be expended by the North Dakota State Corn Show in conformance to Sections 1866b1 to 1866b6, inclusive, of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, for the biennium, beginning July 1st, 1931, and ending June 30th, 1933.

Approved February 13, 1931.

## CHAPTER 27

(H. B. No. 8—Committee on Appropriations.)

## DELEGATES NATIONAL CONVENTIONS

An Act making an appropriation to defray expenses of the delegates to national political conventions as prescribed by Section 916 of the Compiled Laws of 1913.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$5,000.00, for the biennium, or so much thereof as may be necessary to pay the traveling expenses of delegates to national nominative political conventions as prescribed by Section 916 of the Compiled Laws of North Dakota for 1913.

Approved January 27, 1931.

## CHAPTER 28

(H. B. No. 91—Muus, Veitch, Helbling and Jardine.)

## AGRICULTURAL FAIRS

An Act making an appropriation for agricultural fair purposes and providing for the division, expenditure and disbursement thereof.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the treasury of the State of North Dakota not otherwise appropriated the sum of thirty-one thousand (\$31,000.00) dollars for agricultural fair purposes to be divided, expended and disbursed as follows:

The sum of nine thousand (\$9,000.00) dollars, payable four thousand five hundred (\$4,500.00) dollars July 1st, 1931, and four thousand five hundred (\$4,500.00) dollars July 1st, 1932, to the North Dakota State Fair Association for Grand Forks to be expended for maintenance and premiums for live stock, poultry and agricultural exhibits at fairs held by said association in each of said years.

The sum of nine thousand (\$9,000.00) dollars, payable four thousand five hundred (\$4,500.00) dollars July 1st, 1931, and four thousand five hundred (\$4,500.00) dollars July 1st, 1932, to the North Dakota State Fair Association for Fargo to be expended for maintenance and premiums for live stock, poultry and agricultural exhibits at fairs held by said association in each of said years.

The sum of nine thousand (\$9,000.00) dollars, payable four thousand five hundred (\$4,500.00) dollars July 1st, 1931, and four thousand five hundred (\$4,500.00) dollars July 1st, 1932, to the

Missouri Slope Agriculture and Fair Association for Mandan to be expended for maintenance and premiums for live stock, poultry and agricultural exhibits at fairs held by said association in each of said years.

The sum of four thousand (\$4,000.00) dollars, as an additional appropriation, payable two thousand (\$2,000.00) dollars July 1st, 1931, and two thousand (\$2,000.00) dollars July 1st, 1932, to the North West Agricultural, Live Stock and Fair Association at Minot to be expended for maintenance and premiums for live stock, poultry and agricultural exhibits at fairs held by said association in each of said years.

Approved March 2, 1931.

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## CHAPTER 29

(S. B. No. 14—Committee on Appropriations.)

### CARE FEEBLE MINDED—STATE AT LARGE

An Act making an appropriation for the care of feeble minded whose residence cannot be determined and whose care must be borne by the state.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$2,000.00, or so much thereof as may be necessary to care for the feeble minded whose residence cannot be determined and whose care must be borne by the state, for the biennium beginning July 1, 1931, and ending June 30, 1933.

Approved January 31, 1931.

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## CHAPTER 30

(H. B. No. 17—Committee on Appropriations.)

### FIREMEN'S ASSOCIATION

An Act making an appropriation for the use and benefit of the North Dakota Firemen's Association for the purpose of promoting the efficiency and growth of its different departments, and the holding of an annual tournament, according to the rules and regulations of such association.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$2,000.00, or so much thereof as may be necessary for the use and benefit of the North Dakota Firemen's Association for the purpose of promoting the efficiency and growth of its different

departments, and for the holding of an annual tournament, according to the rules and regulations of such association, for the biennium beginning July 1st, 1931, and ending June 30th, 1933.

Approved January 29, 1931.

### CHAPTER 31

(H. B. No. 24—Committee on Appropriations.)

#### INSURANCE TAX FIRE DEPARTMENTS

An Act making an appropriation for the purpose of paying insurance tax to the various fire departments of the state, in compliance with the provisions of Sections 3993 to 3998, inclusive, of the Compiled Laws of 1913.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$100,000.00, or so much thereof as may be necessary to comply with the provisions of Sections 3993 to 3998, inclusive, of the Compiled Laws of North Dakota for the year 1913 relating to the payment of premiums received upon policies issued upon property, to various fire departments, for the biennium beginning July 1st, 1931, and ending June 30th, 1933.

Approved February 13th, 1931.

### CHAPTER 32

(H. B. No. 61—Committee on Appropriations.)

#### GAME AND FISH DEPARTMENT

An Act making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the game and fish department.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury in the game and fish fund, not otherwise appropriated, the sum of \$139,990.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the game and fish department, and in carrying out the provisions and purposes of all game laws imposing duties or conferring powers on the game and fish commissioner, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salary:

Commissioner, Deputy Commissioner and Chief	
Game Warden .....	\$ 19,200.00
Game Wardens .....	21,000.00

Clerkhire .....	8,640.00
Postage .....	2,000.00
Office Supplies .....	800.00
Furniture and Fixtures .....	500.00
Printing .....	5,000.00
Miscellaneous .....	6,500.00
Travel Expense .....	37,800.00
Office Rent .....	3,550.00
Maintenance of Game Farms .....	5,000.00
Maintenance of Fish Hatcheries .....	7,500.00
Rewards .....	2,500.00
Propagation .....	10,000.00
Construction .....	10,000.00
Total .....	\$139,990.00

Approved March 7, 1931.

### CHAPTER 33

(H. B. No. 14—Committee on Appropriations.)

#### GLANDERS AND DOURINE

An Act making an appropriation for the glanders and dourine indemnity fund.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$2,000.00, or so much thereof as may be necessary to indemnify the owners of animals afflicted with the disease known as glanders and dourine, for the biennium beginning July 1st, 1931, and ending June 30th, 1933.

Approved January 27, 1931.

### CHAPTER 34

(H. B. No. 54—Committee on Appropriations.)

#### GRAIN STORAGE COMMISSIONER

An Act making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the office of Grain Storage Commissioner.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$28,500.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation



of the office of grain storage commissioner, and in carrying out the provisions of any law imposing duties or conferring powers on said commissioner, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salary .....	\$ 7,000.00
Clerkhire .....	7,500.00
Postage .....	2,000.00
Office Supplies .....	500.00
Furniture and Fixtures .....	500.00
Printing .....	2,000.00
Miscellaneous .....	2,500.00
Travel Expense .....	4,500.00
Laboratory and Field Equipment .....	2,000.00
	<hr/>
Total .....	\$28,500.00

Approved March 7, 1931.

## CHAPTER 35

(S. B. No. 19—Committee on Appropriations.)

### DEPARTMENT OF PUBLIC HEALTH

An Act making an appropriation for the purpose of paying salary, clerkhire and general expenses of the Department of Public Health.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$61,200.00, or so much thereof as may be necessary to pay the salary, clerkhire and all miscellaneous items and expenses for the department of public health, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salary—Health Officer .....	\$ 7,200.00
Clerkhire:	
Director Preventable Diseases .....	5,600.00
Director Vital Statistics .....	3,600.00
Director Child Hygiene .....	5,600.00
Seven Stenographers .....	14,000.00
Two Public Health Nurses .....	6,800.00
Postage .....	3,000.00
Office Supplies .....	1,500.00
Furniture and Fixtures .....	900.00
Printing .....	6,000.00
Miscellaneous .....	1,000.00
Travel Expense .....	4,000.00

Indexing, Filing and Binding Birth, Death and Marriage Certificates .....	2,000.00
Total .....	<u>\$61,200.00</u>

Approved March 10, 1931.

CHAPTER 36

(H. B. No. 63—Committee on Appropriations.)

STATE HIGHWAY DEPARTMENT

An Act making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the state highway department.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury in the motor vehicle registration fund, not otherwise appropriated, the sum of \$364,600.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the state highway department, and in carrying out the provisions and purposes of the state highway commission act, and cooperating with the federal government under the Act of Congress approved July 11, 1916 (Public Document No. 156) entitled "An Act to provide that the United States shall aid the states in the construction of rural post-roads and for other purposes," and in carrying out the provisions of any other law imposing duties or conferring powers on said commission, and there is hereby set apart and appropriated from said motor vehicle registration fund the amounts specified in the following section of this act, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salary of Chief Highway Commissioner .....	\$ 10,000.00
Commissioners—Per Diem .....	7,000.00
Commissioners—Travel .....	5,000.00
Engineers' Salaries .....	127,000.00
Secretary and Clerical Salaries .....	82,000.00
Travel Expense .....	57,500.00
Postage, Telephone, Telegraph .....	20,500.00
Supplies .....	13,500.00
Printing, Lithographing, Maps .....	11,600.00
Rentals .....	8,000.00
Office Furniture and Fixtures .....	7,500.00
Engineering Equipment .....	4,500.00
Testing Supplies and Equipment .....	4,000.00
Miscellaneous .....	6,500.00
Total .....	<u>\$364,600.00</u>

Approved March 9, 1931.

## CHAPTER 37

(H. B. No. 64—Committee on Appropriations.)

## MOTOR VEHICLE REGISTRATION

An Act making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the motor vehicle registration department.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury in the motor vehicle registration fund, not otherwise appropriated, the sum of \$146,030.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the motor vehicle registration department, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salary .....	\$ 5,000.00
Clerkhire .....	37,020.00
Postage .....	35,000.00
Office Supplies .....	2,500.00
Furniture and Fixtures .....	2,000.00
Printing, Lithographing and Engraving ...	5,000.00
Miscellaneous .....	1,500.00
Travel Expense .....	750.00
Special Agents .....	10,000.00
Tags (License Plates) .....	40,000.00
Refund (Overpayment License Fees) .....	1,500.00
Rent and Janitor .....	5,760.00
Total .....	\$146,030.00

Approved March 9, 1931.

## CHAPTER 38

(H. B. No. 40—Committee on Appropriations.)

## STATE HISTORICAL SOCIETY

An Act making an appropriation for the purpose of paying salary, clerkhire and general expenses of the state historical society.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$23,450.00, or so much thereof as may be necessary to pay the salary, clerkhire and miscellaneous expenses of the state historical society for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salary—Superintendent .....	\$ 5,500.00
Clerkhire:	
Librarian .....	3,600.00
Office Assistant .....	2,400.00
Newspaper Clerk .....	2,000.00
Editor of Collections .....	600.00
Postage .....	350.00
Office Supplies .....	500.00
Furniture and Fixtures .....	1,300.00
Printing Historical Quarterly .....	2,000.00
Miscellaneous .....	800.00
Travel Expense .....	1,150.00
Museum .....	1,000.00
Books and Periodicals .....	750.00
Bind Newspapers .....	500.00
State Parks .....	1,000.00
	\$23,450.00

Approved March 9, 1931.

CHAPTER 39

(H. B. No. 41—Committee on Appropriations.)

COMMISSIONER OF IMMIGRATION

An Act making an appropriation to pay salary, stenographer and general expenses of the commissioner of immigration.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$28,065.00, or so much thereof as may be necessary to pay the salary, stenographer, printing and miscellaneous items for the commissioner of immigration, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salary—Commissioner .....	\$ 6,000.00
Clerkhire:	
Secretary-Bookkeeper .....	2,640.00
Stenographer and Mailing Clerk .....	2,400.00
Postage .....	500.00
Office Supplies .....	450.00
Furniture and Fixtures .....	325.00
Printing .....	2,800.00
Miscellaneous .....	650.00
Travel Expense .....	1,300.00
Agricultural and Industrial Exhibits .....	6,000.00

For the purpose of giving the state nation-wide publicity by sending the American Legion, Department of North Dakota Band to the National Conventions of the American Legion at Detroit, Michigan, in 1931 and at the place to be designated in 1932.....	5,000.00
Total .....	\$28,065.00

Approved March 9, 1931.

#### CHAPTER 40

(S. B. No. 16—Committee on Appropriations.)

##### CARE INSANE PATIENTS—STATE AT LARGE

**An Act making an appropriation for the care of insane patients whose residence can not be determined and whose care must be borne by the state.**

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$85,000.00, or so much thereof as may be necessary to care for the insane patients whose residence cannot be determined and whose care must be borne by the state, for the biennium beginning July 1st, 1931, and ending June 30th, 1933.

Approved February 5th, 1931.

#### CHAPTER 41

(H. B. No. 11—Committee on Appropriations.)

##### RELEASE INSANE PATIENTS

**An Act making an appropriation to provide funds to pay the necessary expenses and reasonable compensation to commissioners appointed in actions to release insane patients as prescribed by Section 2562 of the Compiled Laws of 1913.**

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$300.00, for the biennium, or so much thereof as may be necessary to pay the expenses and reasonable compensation to commissioners appointed in actions to release insane patients as provided for under Section 2562 of the Compiled Laws of North Dakota for 1913.

Approved January 27, 1931.

CHAPTER 42

(S. B. No. 50—Committee on Appropriations.)

AGRICULTURAL COLLEGE

An Act making an appropriation to pay the general maintenance, improvements and repairs, new buildings, equipment, miscellaneous and public service of the Agricultural College, Fargo, North Dakota

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$880,206.30 or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, new buildings, equipment, miscellaneous and public service of the Agricultural College, Fargo North Dakota, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Administration:

1. President's Office .....	\$ 20,444.00
2. Business Office .....	23,845.00
3. Registrar's Office .....	16,380.00
4. Telephone Exchange .....	8,500.00
5. Publications and General Printing .....	5,000.00
6. Divisional Expense .....	2,000.00

Education:

1. School of Agriculture .....	223,800.00
2. School of Mechanic Arts .....	114,710.00
3. School of Home Economics .....	72,306.30
4. School of Chemistry .....	62,100.00
5. School of Pharmacy .....	25,860.00
6. School of Veterinary Medicine .....	8,020.00
7. School of Education .....	25,300.00
8. School of Science and Literature .....	203,890.00
9. Summer Sessions .....	10,000.00
10. College Library .....	33,685.00
11. Music (Band, Orchestra, etc.) .....	7,000.00
12. Physical Education (Women) .....	9,100.00
13. Physical Education (Men) .....	23,600.00
14. Military Science .....	6,390.00
15. Students' Welfare .....	4,000.00
16. General Educational Expense .....	20,250.00
17. Leaves of Absence .....	1,000.00

Physical Plant:

1. Buildings and Grounds (Salaries) .....	80,800.00
2. Light, Water, Power and Gas .....	30,000.00

3. Fuel .....	75,000.00
4. Power Plant and Janitors' Supplies .....	27,500.00
<hr/>	
Total Maintenance .....	\$1,146,331.30
Less estimated income .....	431,000.00
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Total Net Maintenance .....	\$715,331.30
Improvements and Repairs:	
Special Improvement Assessments:	
(a) Trunk Sewer and Job No. 2507 .....	\$ 2,893.20
(b) Trunk Water and Job No. 2601 .....	1,558.80
(c) Highways No. 183, 26 and 268 C .....	5,673.00
<hr/>	
Total .....	\$ 10,125.00
Less Experiment Station Apportionment .....	4,000.00
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Total College Assessment .....	6,125.00
1. Campus Streets and Sidewalks	
(a) Sidewalks (replacements and extension) .....	2,000.00
(b) Streets, Curbing and Gravel .....	1,000.00
2. Chemistry Building .....	800.00
3. Ceres Hall .....	500.00
4. Science Hall .....	2,000.00
5. Old Main Building .....	1,000.00
6. Miscellaneous Repairs .....	3,500.00
7. Replacement Steam Lines .....	7,000.00
8. Francis Hall .....	500.00
Equipment:	
1. Special Equipment, Mechanic Arts .....	2,500.00
2. Special Equipment, Botany, Biology and Zoology .....	3,500.00
Miscellaneous:	
1. Insurance of all buildings on campus including Experimental Station and Workmen's Compensation and Bonds .....	26,855.00
Public Service:	
1. Salaries and Operating Budget .....	15,000.00
New Buildings:	
1. Power House Addition—Boiler, etc. ....	50,000.00
2. Remodeling and Equipping Francis Hall for Pharmacy .....	7,500.00
3. Remodeling and Equipping Chemistry Building for Chemistry .....	7,500.00
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Total for all purposes .....	\$860,206.30

Approved March 10, 1931.

CHAPTER 43  
(S. B. No. 33—Fowler.)

AGRICULTURAL COLLEGE—DEFICIT

An Act making an appropriation to provide for the payment of a deficit in the general maintenance fund of the Agricultural College.

Whereas, during the period from July 1st, 1920, to this date the income actually received from interest upon the loan of funds derived from the sale of government land grants of said college has been less than the estimated income from such source and by reason thereof a deficit exists in the general maintenance fund of said college, now therefore,

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$113,035.75 for the purpose of paying a deficit in the general maintenance fund of the Agricultural College; "Provided, that all sums of interest and income which are due and unpaid as of June 30th, 1931, and belonging to the Agricultural College shall, when paid, be transferred to the general fund of the state, until said general fund is reimbursed to the extent of the appropriation herein provided for; and the state auditor is charged with the duty of making the necessary transfers of funds, upon certificate from the state treasurer or the state land commissioner showing the amounts collected, that were past due and unpaid as above stated, to carry out the foregoing provisions."

Approved March 10, 1931.

CHAPTER 44  
(S. B. No. 48—Committee on Appropriations.)

AGRICULTURAL COLLEGE EXPERIMENT STATION

An Act making an appropriation to pay the general maintenance, improvements and repairs, new building, pure seed and miscellaneous items of the Experiment Station at the Agricultural College, Fargo, North Dakota, and its branch stations.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$275,360.00 or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, new building, pure seed and miscellaneous items of the Experiment Station



at the Agricultural College, Fargo, North Dakota, and its branch stations, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salaries, Wages and Operating Expenses—Main Station:

1. Administration .....	\$ 13,600.00
2. Station Staff .....	156,053.00
3. Other Employees .....	86,790.00
4. Labor .....	65,000.00
5. Operating Expense .....	172,325.00
	<hr/>
Total Maintenance .....	\$493,768.00
Less estimated income .....	340,000.00
	<hr/>
Total Net Maintenance .....	\$153,768.00

Improvements and Repairs:

1. General Repairs .....	\$ 7,500.00
2. Assessments Sewer, Water and Paving Projects .....	3,800.00
3. Rebuild Steer Feeding Shed .....	3,000.00
4. Farm Drainage, Second Line .....	1,000.00

New Buildings:

1. Horticultural Greenhouse .....	5,000.00
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Miscellaneous:

1. Heat, Light, Water, etc. ....	40,000.00
2. Fire and Tornado Insurance at Branch Stations .....	1,092.00
3. Workmen's Compensation Insurance .....	3,200.00
4. Barberry Eradication .....	5,000.00

Branch Stations:

1. Dickinson .....	12,000.00
2. Edgeley .....	10,000.00
3. Hettinger .....	10,000.00
4. Langdon .....	10,000.00
5. Williston .....	10,000.00
	<hr/>

Total ..... \$275,360.00

Approved March 10, 1931.

## CHAPTER 45

(H. B. No. 65—Baseflug.)

## DICKINSON SUBSTATION LAND PURCHASE

An Act to appropriate the sum of \$6,400.00 for the purchase of Section 36, in Township 140, north of Range 97, west of the 5th Principal Meridian in Stark County, North Dakota; and providing for the renting thereof to the United States government for use in connection with the Dickinson substation in Stark County.

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

§ 1. There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$6,400.00 for the purpose of purchasing all of section 36, in township 140, north of range 97, west of the 5th principal meridian in Stark County, North Dakota.

§ 2. Upon the purchase of said land, aforesaid, the governor of the State of North Dakota shall, for the state, lease said land to the United States of America for a period of ninety-nine years for use in connection with the Dickinson substation for experimental live stock purposes, and with such rights and on such conditions as the said lessee may require for the annual rental of \$1.00 per year, said lease to contain a provision, however, that when and if said lands shall cease to be used for experimental live stock raising, and when and if the lessee shall cease to maintain its said experimental live stock raising station in connection with the Dickinson substation, then said lease shall in all things terminate.

Approved March 7, 1931.

## CHAPTER 46

(S. B. No. 47—Committee on Appropriations.)

## AGRICULTURAL COLLEGE EXTENSION DIVISION

An Act making an appropriation to pay the general maintenance, and as an offset for federal aid, in extension division work of the Agricultural College.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$102,773.64 or so much thereof as may be necessary to pay the general expenses in carrying out the work of the extension division of the Agricultural College, Fargo, North Dakota, and assist in carrying out the provisions of the Smith-Lever federal aid work in the agricultural demonstration, as provided for under Chapter 5, Session Laws of 1915, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

1. County Agents .....	\$121,822.00
2. Field Agents (Agriculture) .....	70,850.00
3. Field Agents (Home Economics) .....	34,875.00
4. Boys' and Girls' Club Work .....	21,250.00
5. Home Demonstrations (Homemakers' Clubs) .....	24,670.00
6. Publicity and Publications .....	15,806.66
7. Administration .....	25,090.00
8. Maintenance .....	20,000.00

Total ..... \$334,363.66

Approved March 10, 1931.

### CHAPTER 47

(H. B. No. 53—Committee on Appropriations.)

#### STATE SCHOOL FOR THE BLIND

An Act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State School for the Blind, at Bathgate.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$25,425.00, or so much thereof as may be necessary to pay the general maintenance, equipment, improvements and repairs and miscellaneous expenses of the State School for the Blind at Bathgate, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

#### Salaries and Wages:

1. Administration .....	\$ 6,450.00
2. Faculty .....	11,100.00
3. Other Employees .....	10,200.00

#### Operating Expense:

1. Fuel (including freight) .....	7,000.00
2. Light, Power, Water, Gas .....	1,000.00
3. Telephone, Telegraph, Postage .....	325.00
4. Freight and Express .....	200.00
5. Insurance, Bonds, etc .....	1,650.00
6. Printing .....	150.00
7. Travel .....	500.00
8. Office Supplies .....	200.00
9. Educational Supplies .....	1,500.00
10. Power House Supplies .....	300.00
11. Janitor's Supplies .....	150.00
12. Students' Welfare .....	400.00
13. Food (including meats, etc.) .....	9,000.00

14. Clothing .....	200.00
15. Hospital and Medical Service .....	600.00
16. Laundry Cost .....	400.00
17. Farm and Garden .....	2,000.00
	<hr/>
Total Maintenance .....	\$53,325.00
Less estimated income, all sources .....	33,000.00
Net maintenance .....	\$20,325.00
Improvements and Repairs:	
1. General Repairs .....	1,500.00
Equipment:	
1. Kitchen Utensils .....	300.00
2. Furniture, Beds and Bedding .....	500.00
3. Books and Musical Instruments .....	1,500.00
4. Replacement, Plumbing and Steam Fitting ....	500.00
Miscellaneous Items:	
1. Care of Blind Babies .....	800.00
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Total .....	\$25,425.00

Approved March 9, 1931.

CHAPTER 48

(H. B. No. 60—Committee on Appropriations.)

CAPITOL BUILDING AND GROUNDS

An Act making an appropriation for the maintenance of the State Capitol and for improvements, rents, repairs, insurance and upkeep of grounds.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$149,107.00, or so much thereof as may be necessary for the maintenance, improvements and repairs, rents, insurance, upkeep of grounds and miscellaneous of the State Capitol buildings. Unless otherwise specifically stated, the appropriations herein made shall be for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Maintenance .....	\$ 78,627.00
Improvements and Repairs .....	20,000.00
Rent on Downtown Offices .....	40,040.00
Insurance and Workmen's Compensation .....	8,440.00
Trees, Shrubbery and Roads .....	2,000.00
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Total .....	\$149,107.00

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

Approved March 9, 1931.

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## CHAPTER 49

(S. B. No. 155—Committee on Appropriations.)

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### CAPITOL BUILDING, DEFICIT. INSURANCE PREMIUM

An Act to make an appropriation to pay deficit in premiums for Insurance on State Capitol.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of two thousand three hundred twenty-one and 63/100 (\$2321.63) for the purpose of paying a deficit in premiums for insurance on the State Capitol, due to the state fire and tornado fund.

Approved March 11, 1931.

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## CHAPTER 50

(H. B. No. 182—Committee on State Affairs.)

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### CAPITOL FIRE REPLACEMENT

An Act making an appropriation and creating a fund to be designated as the "Capitol fire replacement fund" and authorizing the state emergency commission to make transfers therefrom to the several state departments that suffered losses of state property in the Capitol fire.

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

§ 1. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of \$306,000.00, or so much thereof as may be necessary, for the purpose of replacing furniture, fixtures, equipment, office supplies and other material lost by the state departments in the burning of the State Capitol building, which appropriation shall be designated as the "Capitol fire replacement fund." Funds from such appropriation may be transferred to any of such state departments upon the order of the state emergency commission; provided, that no funds shall be transferred to any state department in excess of the amount actually required by any such state department for replacement purposes. Any unexpended balance remaining in such fund shall revert to the general fund of the state on July 1, 1932.

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

Approved March 11, 1931.

CHAPTER 51

(S. B. No. 84—Sperry.)

TEMPORARY QUARTERS LEGISLATIVE ASSEMBLY, STATE DEPARTMENTS, ETC.

An Act making an appropriation for general maintenance, alteration and repair of temporary quarters for the legislative assembly and various state departments and offices and rents for said quarters.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of thirty-five thousand dollars (\$35,000.00) for the general maintenance of Capitol grounds and maintenance, alteration and repair of temporary quarters for the Legislative Assembly and various state departments and offices and rents for said quarters for the period beginning January 1st, 1931, and ending June 30th, 1931.

General Maintenance, Repairs .....	\$17,000.00
Rent .....	18,000.00
Total .....	<u>\$35,000.00</u>

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

Approved February 9, 1931.

CHAPTER 52

(H. B. No. 218—Twichell.)

RECONSTRUCTING NORTH WING CAPITOL BUILDING

An Act authorizing the board of administration to repair and reconstruct the north wing of the Capitol building, providing for the placing of an experienced contractor in charge of such work; and making an appropriation therefor.

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

§ 1. BOARD AUTHORIZED TO RECONSTRUCT. SUPERVISING CONTRACTOR: PURCHASE OF MATERIAL.] The board of administration is hereby authorized and directed to immediately repair, reconstruct and restore to a condition fit and suitable for temporary use and occupancy for state offices, the basement and first floor of the north

wing of the Capitol building, and for such purpose is hereby directed to employ a reputable and experienced contractor to supervise all work in connection with such repairs, reconstruction and restoration, and to purchase all materials and equipment necessary thereto, and employ all labor requisite to such work. No material or equipment shall be purchased, and no labor shall be so employed by such supervising contractor except with the authorization and approval of the board of administration. Such supervising contractor shall be paid a sum to be fixed by the board of administration for his entire services.

It is the purpose and object of this act that the repairing, reconstruction and restoration of this building be placed in charge of a practical and experienced contractor who will effect all such economies as are practical in putting this structure into a safe condition for use and occupancy during such period as it may be needed pending the construction of a new Capitol building.

§ 2. PROVISIONS OF LAW NOT APPLICABLE.] The provisions of Chapter 195 of the Session Laws of North Dakota for 1929 shall not apply to this repair, reconstruction and restoration project.

§ 3. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of ten thousand dollars, or so much thereof as may be necessary to carry out the provisions of this act.

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

Approved February 24, 1931.

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## CHAPTER 53

(S. B. No. 44—Committee on Appropriations.)

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### NORTH DAKOTA CHILDREN'S HOME AND AID SOCIETY

An Act making an appropriation for the North Dakota Children's Home and Aid Society of Fargo, North Dakota.

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of ten thousand dollars (\$10,000.00) for the biennium beginning July 1st, 1931, and ending June 30th, 1933, or so much thereof as may be necessary, to the children's welfare bureau and by its director apportioned to the North Dakota Children's Home and Aid Society in the following manner, to-wit: The sum of ten dollars (\$10.00) per month shall be paid the said North Dakota Children's Home and Aid Society toward the support

and maintenance of each poor and indigent infant or child while their age or general condition necessitates their remaining as charges of said society, as determined by the superintendent or superior in charge.

§ 2. REPORTS AND CERTIFICATES—PAYMENTS.] The superintendent or superior in charge of said North Dakota Children's Home and Aid Society shall make monthly reports to the state auditor, of the State of North Dakota, duly certified under oath, showing the number and classes of inmates in said institution and the state auditor shall thereupon pay the said institution the sum for each inmate as hereinbefore provided.

§ 3. SUPERVISION AND INSPECTION.] Said North Dakota Children's Home and Aid Society shall be subject to the supervision and inspection of the state board of administration as provided in the Child Welfare Act.

Approved March 2, 1931.

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#### CHAPTER 54

(S. B. No. 45—Committee on Appropriations.)

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#### FLORENCE CRITTENTON HOME

**An Act making an appropriation for poor and destitute persons, providing the methods of expenditure and audit thereof; supervision and inspection therefor.**

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of ten thousand (\$10,000.00) dollars for the biennium beginning July 1st, 1931, and ending June 30th, 1933, or so much thereof as may be necessary, to the children's welfare bureau, and by its director apportioned to the Florence Crittenton Home, a corporation, of Fargo, North Dakota, being a maternity home now licensed in this state, to be paid to the said Florence Crittenton Home in the following manner, to-wit: The sum of fifteen dollars (\$15.00) per month shall be paid the said institution toward the support and maintenance of each poor and indigent unmarried expectant mother, or mother, and ten dollars (\$10.00) per month toward the support and maintenance of each poor and indigent infant or child during the time their age or physical condition necessitates their being charges in said maternity home, as determined by the superintendent or superior in charge.

§ 2. REPORTS AND CERTIFICATES. PAYMENTS.] The superintendent or superior in charge of said Florence Crittenton Home shall make monthly reports to the state auditor, of the State of North Dakota, duly certified under oath, showing the number and classes



of inmates in said institution and the state auditor shall thereupon pay the said institution the sum for each inmate as hereinbefore provided.

§ 3. SUPERVISION AND INSPECTION.] Said Florence Crittenton Home shall be subject to the supervision and inspection of the state board of administration as provided for in the Child Welfare Act.

Approved March 2, 1931.

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## CHAPTER 55

(S. B. No. 86—Committee on Appropriations.)

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### NORTH DAKOTA HOUSE OF MERCY

**An Act making an appropriation for poor and destitute persons, providing the methods of expenditure and audit thereof; supervision and inspection therefor.**

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of ten thousand dollars (\$10,000.00), or so much thereof as may be necessary, to the children's welfare bureau, and by its director apportioned to the North Dakota House of Mercy, of Fargo, North Dakota, being a maternity home now licensed in this state, to be paid to said North Dakota House of Mercy in the following manner, to-wit: The sum of fifteen dollars (\$15.00) per month shall be paid the said institution toward the support and maintenance of each poor and indigent unmarried expectant mother, or mother, and ten dollars (\$10.00) per month toward the support and maintenance of each poor and indigent infant or child during the time their age or general condition necessitates their being charges in said maternity home, as determined by the superintendent or superior in charge.

§ 2. REPORTS AND CERTIFICATES—PAYMENTS.] The superintendent or superior in charge of said North Dakota House of Mercy shall make monthly reports to the state auditor, of the State of North Dakota, duly certified under oath, showing the number and classes of inmates in said institution and the state auditor shall thereupon pay the said institution the sum for each inmate as hereinbefore provided.

§ 3. SUPERVISION AND INSPECTION.] Said North Dakota House of Mercy shall be subject to the supervision and inspection of the state board of administration as provided for in the Child Welfare Act.

Approved March 2, 1931.

## CHAPTER 56

(S. B. No. 85—Committee on Appropriations.)

## ST. JOHN'S ORPHANAGE

An Act making an appropriation for St. John's Orphanage of Fargo, North Dakota.

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of ten thousand dollars (\$10,000.00), or so much thereof as may be necessary, to the children's welfare bureau and by its director apportioned to the St. John's Orphanage in the following manner, to-wit: The sum of ten dollars (\$10.00) per month shall be paid the said St. John's Orphanage toward the support and maintenance of each poor and indigent infant or child while their age or general condition necessitates their remaining as charges in said home, as determined by the superintendent or superior in charge.

§ 2. REPORTS AND CERTIFICATES—PAYMENTS.] The superintendent or superior in charge of said St. John's Orphanage shall make monthly reports to the state auditor, of the State of North Dakota, duly certified under oath, showing the number and classes of inmates in said institution, and the state auditor shall thereupon pay the said institution the sum for each inmate as hereinbefore provided.

§ 3. SUPERVISION AND INSPECTION.] Said St. John's Orphanage shall be subject to the supervision and inspection of the state board of administration as provided for in the Child Welfare Act.

Approved March 2, 1931.

## CHAPTER 57

(S. B. No. 21—Committee on Appropriations.)

## SCHOOL FOR THE DEAF

An Act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the School for the Deaf at Devils Lake, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$157,500.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and

miscellaneous expenses of the School for the Deaf at Devils Lake, North Dakota, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salaries and Wages:

1. Administration .....	\$ 12,900.00
2. Faculty .....	72,000.00
3. Other Employees .....	26,250.00

Operating Expense:

1. Fuel (including freight) .....	16,000.00
2. Light, Power, Water, Gas .....	2,750.00
3. Telephone, Telegraph, Postage .....	1,000.00
4. Trades Building Supplies .....	1,500.00
5. Insurance, Bonds, etc. ....	6,000.00
6. Printing .....	2,500.00
7. Travel .....	500.00
8. Office Supplies .....	400.00
9. Educational Supplies .....	1,500.00
10. Power House Supplies .....	600.00
11. Janitor's Supplies .....	2,000.00
12. Students' Welfare .....	1,000.00
13. Food (including meats, etc.) .....	23,000.00
14. Laundry .....	300.00
15. Hospital and Medical Service .....	900.00
16. Farm and Garden .....	2,500.00
17. Automobile and Bus Upkeep .....	1,000.00
18. Kitchen Supplies .....	800.00
19. Bedding, Linen and Dry Goods .....	1,300.00

Total Maintenance .....	\$177,050.00
Less estimated income, all sources .....	40,000.00

Net Maintenance .....

\$137,050.00

Improvements and Repairs:

1. Heating and Plumbing .....	1,000.00
2. Electric Wiring and Supplies .....	700.00
3. Painting .....	1,500.00
4. General Repair of Building .....	3,000.00
5. Weatherstripping and Calking Three Buildings .....	700.00

Equipment:

1. Library and Text Books .....	1,000.00
2. Furniture .....	2,000.00
3. Radioear and Motion Picture Projector .....	1,500.00
4. Play Ground Equipment .....	500.00
5. Shop Equipment .....	750.00
6. Power House Equipment .....	5,000.00
7. Farm Equipment .....	150.00

8. Library Equipment .....	250.00
9. Bus .....	2,000.00
Miscellaneous Items:	
1. Western Union Clock Rental .....	400.00
Total .....	<u>\$157,500.00</u>

Approved March 10, 1931.

CHAPTER 58

(S. B. No. 13—Committee on Appropriations.)

INSTITUTION FOR FEEBLE MINDED

An Act making an appropriation for the general maintenance, improvements and repairs, new building, equipment and miscellaneous items for the Institution for the Feeble Minded at Grafton, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$331,100.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, new building, equipment and miscellaneous items of the Institution for the Feeble Minded at Grafton, North Dakota, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salaries and Wages:

1. Administration .....	\$ 9,360.00
2. Faculty .....	15,840.00
3. Other Employees .....	166,800.00

Operating Expense:

1. Fuel (including freight) .....	52,000.00
2. Light, Power, Water, Gas .....	2,600.00
3. Telephone, Telegraph, Postage .....	1,000.00
4. Freight and Express .....	500.00
5. Insurance, Bonds, etc. ....	6,250.00
6. Printing .....	1,000.00
7. Travel .....	500.00
8. Office Supplies .....	1,500.00
9. Educational Supplies .....	2,100.00
10. Power House Supplies .....	2,000.00
11. Janitor's Supplies .....	5,500.00
12. Inmates' Welfare .....	1,500.00
13. Food (including meats, etc.) .....	68,000.00
14. Clothing .....	25,000.00
15. Hospital and Medical Service .....	4,000.00
16. Farm and Garden .....	12,000.00

17. Laundry .....	4,000.00
18. Incidentals .....	5,000.00
	<hr/>
Total Maintenance .....	\$386,450.00
Less estimated income, all sources .....	216,000.00
	<hr/>
Net Maintenance .....	\$170,450.00
Improvements and Repairs:	
1. Paints and Painting .....	2,000.00
2. Building Repairs .....	4,000.00
3. Boiler House .....	1,000.00
4. Heating and Plumbing .....	1,500.00
5. Water Basin .....	1,800.00
6. Feed Room Barn .....	700.00
6½. Boiler House, Boilers and Equipment .....	130,000.00
New Buildings:	
1. Hog House .....	1,500.00
Equipment:	
1. Kitchen Equipment .....	500.00
2. Beds and Furniture .....	2,000.00
3. Furnishings .....	2,000.00
4. Shop .....	1,200.00
5. Bakery .....	1,500.00
6. Laundry Equipment .....	2,500.00
7. Truck Diamond T. ....	1,300.00
Miscellaneous Items:	
1. Land Rental .....	7,150.00
	<hr/>
Total .....	\$331,100.00
Approved March 10, 1931.	

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CHAPTER 59

(H. B. No. 52—Committee on Appropriations.)

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SCHOOL OF FORESTRY

An Act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State School of Forestry at Bottineau.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$93,245.00, or so much thereof as may be necessary for the

purpose of paying the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State School of Forestry at Bottineau, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

## Salaries and Wages:

1. Administration .....	\$11,020.00
2. Faculty .....	47,975.00
3. Other Employees .....	5,250.00

## Operating Expense:

1. Fuel (including freight) .....	4,000.00
2. Light, Power, Water, Gas .....	800.00
3. Telephone, Telegraph, Postage .....	800.00
4. Freight and Express .....	750.00
5. Insurance, Bonds, etc .....	3,000.00
6. Printing .....	800.00
7. Travel .....	300.00
8. Office Supplies .....	650.00
9. Educational Supplies .....	1,200.00
10. Janitor's Supplies .....	800.00
11. Students' Welfare .....	400.00
12. Dormitory Maintenance .....	500.00
13. State Forest Nursery .....	7,500.00
14. Forestry Extension .....	5,000.00
14½. Reforestation and cooperation with the Federal Government .....	5,000.00
15. Lloyd-Thomas Appraisalment .....	100.00
Total Maintenance .....	\$95,845.00
Less estimated income, all sources .....	9,000.00
Net Maintenance .....	\$86,845.00

## Improvements and Repairs:

1. General Repairs .....	1,000.00
2. Repairing Roof .....	1,000.00
2½. Third Floor Improvement in reforestation of- fice .....	1,000.00
3. Fencing Farms .....	400.00

## Equipment:

1. Library .....	500.00
2. School and Laboratory .....	1,000.00
3. State Forest Nursery Machinery .....	200.00
4. Typewriter Replacement .....	250.00
5. Athletic Equipment Replacement .....	250.00

6. Gas Plant for Chemistry and Home Economics	
Laboratories .....	600.00
7. Agriculture—Smith-Hughes .....	200.00
Total .....	<u>\$93,245.00</u>

Approved March 9, 1931.

### CHAPTER 60

(S. B. No. 15—Committee on Appropriations.)

#### HOSPITAL FOR THE INSANE

An Act making an appropriation for the payment of salaries and wages, improvements and repairs, new buildings and miscellaneous items for the State Hospital for the Insane at Jamestown, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$21,000.00 or so much thereof as may be necessary to pay the salaries and wages, improvements and repairs, new buildings and miscellaneous items of the State Hospital for the Insane at Jamestown, North Dakota, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

#### Salaries and Wages:

1. Administration .....	\$ 18,600.00
2. Assistant Physicians, Dentist and Matron .....	22,000.00
3. Other Employees .....	305,500.00

#### Operating Expense:

1. Fuel (including freight) .....	140,000.00
2. Filtration Plant .....	12,500.00
2½. New Tank for Unfiltered Water .....	5,500.00
3. Telephone, Telegraph, Postage .....	2,500.00
4. Insurance, Bonds, etc. ....	17,500.00
5. Printing and Office Supplies .....	2,500.00
6. Travel .....	1,000.00
7. Educational Supplies (O. T. Dept.) .....	4,000.00
8. Power House Supplies .....	9,500.00
9. Janitor's Supplies, Soaps and Cleaner .....	15,350.00
10. Inmates' Welfare .....	15,500.00
11. Food (including meats, etc.) .....	247,000.00
12. Clothing .....	58,000.00
13. Hospital, Medical Service and Dental .....	10,000.00
14. Operating Physical Plant .....	52,000.00
15. Grounds, Farms and Garden Maintenance .....	22,500.00
16. Household Supplies, etc. ....	27,600.00
16½. General Repairs .....	5,000.00

17. Laundry Supplies .....	6,500.00
18. Institutional Collections .....	5,650.00
	<hr/>
Total Maintenance .....	\$1,002,200.00
Less estimated income, all sources .....	1,006,200.00
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Improvements and Repairs:

1. Corridor Extension .....	\$ 8,000.00
Heater and Circulatory System for Hot Water .....	4,000.00

New Buildings:

1. Root Cellar .....	5,000.00
2. Two Hog Houses .....	4,000.00
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Total Improvements and Repairs ..... \$ 21,000.00....

Approved March 10, 1931.

CHAPTER 61

(H. B. No. 56—Committee on Appropriations.)

DICKINSON NORMAL

An Act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses for the State Normal School, Dickinson, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$164,498.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Normal School, Dickinson, North Dakota, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salaries and Wages:

1. Administration .....	\$ 18,430.00
2. Faculty .....	122,018.00
3. Other Employees .....	16,060.00

Operating Expense:

1. Fuel (including freight) .....	12,000.00
2. Light, Power, Water, Gas .....	2,000.00
3. Telephone, Telegraph, Postage .....	1,200.00
4. Freight and Express .....	400.00
5. Insurance, Bonds, etc. ....	1,960.00
6. Printing .....	2,000.00
7. Travel .....	400.00
8. Office Supplies .....	500.00



9. Educational Supplies .....	2,500.00
10. Power House Supplies .....	1,200.00
11. Janitor's Supplies .....	1,500.00
12. Students' Welfare .....	1,300.00
13. Contract Renewal of Typewriters .....	960.00

Total Maintenance .....	\$184,428.00
Less estimated income, all sources .....	45,000.00

Net Maintenance ..... \$139,428.00

Improvements and Repairs:

1. Trees, Shrubbery, Driveways .....	500.00
2. Sidewalks and Curbing .....	500.00
3. Athletic Field and Tennis Court .....	400.00
4. Electric Fixtures and Lamps .....	300.00
5. Smoke Stack .....	4,500.00
6. General Repairs and Upkeep .....	2,000.00
7. To Complete Locker Installation .....	300.00

Equipment:

1. Gymnasium .....	600.00
2. Office .....	500.00
3. Library .....	500.00
4. Manual Training .....	500.00
5. Home Economics .....	300.00
6. Class Room Equipment .....	3,000.00
7. Laboratories .....	600.00
8. Library Books and Periodicals .....	2,500.00
9. Commercial Department .....	500.00
10. Cafeteria Range .....	440.00

Miscellaneous Items:

1. Lloyd Thomas Appraisal .....	100.00
2. 1925 Storm Sewer Assessment .....	5,315.00
3. Reimbursements due Dickinson School District No. 1, 1925-1929 .....	1,440.00
4. Fire Protection Equipment .....	275.00

Total ..... ; \$164,498.00

Approved March 9, 1931.

CHAPTER 62

(H. B. No. 58—Committee on Appropriations.)

MAYVILLE NORMAL

An Act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Normal School, Mayville, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$208,040.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous items of the State Normal School at Mayville, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salaries and Wages:

1. Administration .....	\$ 21,240.00
2. Faculty .....	142,500.00
3. Other Employes .....	30,300.00

Operating Expense:

1. Fuel (including freight) .....	18,000.00
2. Light, Power, Water, Gas .....	9,000.00
3. Telephone, Telegraph, Postage .....	2,000.00
4. Freight and Express .....	1,000.00
5. Insurance, Bonds, etc. ....	5,900.00
6. Printing (including Catalogs) .....	2,000.00
7. Travel .....	400.00
8. Office Supplies .....	500.00
9. Educational Supplies .....	3,000.00
10. Power House Supplies .....	1,600.00
11. Janitor's Supplies .....	2,000.00
12. Students' Welfare .....	3,000.00
13. Truck, Car, Bus Maintenance .....	2,000.00
14. Board of Education (Books and Buildings) .....	2,000.00
15. Grounds (Tennis Courts) .....	500.00
16. Extra Summer School Teachers .....	7,600.00

Total Maintenance .....	254,540.00
Less estimated income, all sources .....	60,000.00

Net Maintenance ..... \$194,540.00

Improvements and Repairs:

1. Plumbing, Heating, Ventilating .....	700.00
2. Painting Interior Buildings .....	1,000.00
3. To complete shingling West Hall .....	500.00

4. Old Gymnasium—Science Laboratory .....	800.00
5. General Repairs .....	1,500.00
New Buildings :	
1. Garage for Bus .....	400.00
Equipment :	
1. Replacement of Equipment .....	2,000.00
2. Typewriters .....	250.00
3. Library .....	2,500.00
4. Filing Equipment .....	350.00
5. Physical Education Equipment .....	400.00
6. New Equipment—Class Rooms and Offices.....	500.00
7. Kitchen Range .....	400.00
8. Chemistry Laboratory .....	2,000.00
Miscellaneous Items :	
1. Lloyd Thomas Appraisal .....	200.00
Total .....	<u>\$208,040.00</u>
Approved March 9, 1931.	

## CHAPTER 63

(H. B. No. 55—Committee on Appropriations.)

## MINOT NORMAL

An Act making an appropriation for the general maintenance, improvements and repairs, new building, equipment and miscellaneous items of the State Normal School, Minot, N. D.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$360,195.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, new building, equipment and miscellaneous items of the State Normal School, Minot, North Dakota, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

## Salaries and Wages:

1. Administration .....	\$ 25,650.00
2. Faculty .....	269,420.00
3. Other Employees .....	45,800.00

## Operating Expense:

1. Fuel (including freight) .....	30,000.00
2. Light, Power, Water, Gas .....	1,500.00
3. Telephone, Telegraph, Postage .....	2,000.00
4. Freight and Express .....	1,500.00

5. Insurance, Bonds, etc. ....	5,000.00
6. Printing .....	2,700.00
7. Travel .....	400.00
8. Office Supplies .....	750.00
9. Educational Supplies .....	9,000.00
10. Power House Supplies .....	1,000.00
11. Janitor's Supplies .....	4,500.00
12. Students' Welfare .....	1,775.00
13. Campus Maintenance .....	1,000.00
14. Dormitory .....	2,000.00
15. Operating Rural Department Car .....	1,200.00
	<hr/>
Total Maintenance .....	\$405,195.00
Less estimated income, all sources .....	95,000.00
	<hr/>
Net Maintenance .....	\$310,195.00
 Improvements and Repairs:	
1. General Repairs .....	3,000.00
2. Two 150 H. P. Boilers .....	8,000.00
3. Stokers for the same .....	2,000.00
4. 100 KW Engine and Generator .....	8,000.00
5. New Pipes and Moving Equipment .....	2,500.00
6. One New Vacuum Pump .....	800.00
 New Buildings:	
1. Addition to Power House .....	12,500.00
 Equipment:	
1. Library Books and Periodicals .....	4,000.00
2. General .....	4,000.00
 Miscellaneous Items:	
1. Taxes and Special Improvements .....	5,000.00
2. Appraisements .....	200.00
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Total .....	\$360,195.00

Approved March 9, 1931.

CHAPTER 64

(H. B. No. 57—Committee on Appropriations.)

VALLEY CITY NORMAL

An Act making an appropriation for the general maintenance, improvements and repairs, new building, equipment and miscellaneous items of the State Normal School at Valley City, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the

sum of \$333,066.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, new building, equipment and miscellaneous items of the State Normal School, Valley City, North Dakota, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit :

Salaries and Wages :

1. Administration .....	\$ 26,640.00
2. Faculty .....	277,275.00
3. Other Employees .....	49,300.00

Operating Expense :

1. Fuel (including freight) .....	35,000.00
2. Light, Power, Water, Gas .....	3,500.00
3. Telephone, Telegraph, Postage .....	3,500.00
4. Freight and Express .....	1,500.00
5. Insurance, Bonds, etc. ....	8,550.00
6. Printing .....	3,000.00
7. Travel .....	400.00
8. Office Supplies .....	600.00
9. Educational Supplies .....	9,000.00
10. Power House Supplies .....	2,500.00
11. Janitor's Supplies .....	4,000.00
12. Students' Welfare .....	4,000.00

Total Maintenance .....	\$428,766.00
Less estimated income, all sources .....	150,000.00

Net Maintenance ..... \$278,766.00

Improvements and Repairs :

1. General .....	10,000.00
2. West Hall Foundation .....	2,500.00
3. Window Stripping .....	1,500.00
4. Heating Plant .....	7,500.00
5. Concrete Drive and Gutter .....	3,600.00
6. Care and improvement of Grounds, Drives, Walks .....	2,000.00

New Buildings :

1. Garage and Lot .....	3,500.00
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Equipment :

1. Library, Books, Periodicals, Binding and Sup- plies .....	4,000.00
2. Furniture, Apparatus and Machinery .....	3,000.00
3. Furniture for Dormitories .....	1,000.00
4. Equipment for Annex to Training School .....	3,000.00

Miscellaneous Items :

1. Special Assessment, Paving Normal and Euclid Ave. ....	4,000.00
2. Rural Teacher Training Department .....	8,500.00
3. Items of expense not properly belonging to any of the preceding .....	200.00
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Total .....	\$333,066.00

Approved March 9, 1931.

CHAPTER 65

(H. B. No. 49—Committee on Appropriations.)

NORMAL AND INDUSTRIAL SCHOOL, ELLENDALE

An Act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Normal and Industrial School at Ellendale.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$104,906.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Normal and Industrial School at Ellendale, for the biennium beginning July 1st, 1921 (1931), and ending June 30th, 1933, to-wit :

Salaries and Wages :

1. Administration .....	\$ 12,825.00
2. Faculty .....	86,906.00
3. Other Employees .....	17,445.00

Operating Expense :

1. Fuel (including freight) .....	10,500.00
2. Light, Power, Water, Gas .....	900.00
3. Telephone, Telegraph, Postage .....	800.00
4. Freight and Express .....	400.00
5. Insurance, Bonds, etc. ....	3,180.00
6. Printing .....	1,000.00
7. Travel .....	400.00
8. Office Supplies .....	500.00
9. Educational Supplies .....	3,600.00
10. Power House Supplies .....	500.00
11. Janitor's Supplies .....	900.00
12. Students' Welfare .....	4,000.00
13. Instructors in Summer School .....	8,000.00
14. Farm Maintenance .....	1,800.00

15. Practice Teaching—City Schools .....	1,000.00
16. Practice Teaching—Rural .....	1,000.00
	<hr/>
Total Maintenance .....	\$155,656.00
Less estimated income, all sources .....	65,000.00
	<hr/>
Net Maintenance .....	\$ 90,656.00
Improvements and Repairs:	
1. Watermain .....	200.00
2. Repairs on Buildings .....	2,000.00
3. Repairs—Walks and Grounds .....	300.00
4. Rewiring Buildings .....	2,000.00
5. Fire Escapes .....	1,500.00
6. Rear Exit to Armory Building .....	1,000.00
7. School Bus or Cars .....	2,000.00
Equipment:	
1. Laboratories .....	1,000.00
2. Replacements .....	750.00
3. Library Books, etc. ....	2,000.00
4. New Pianos—to replace worn out instruments	1,500.00
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Total .....	\$104,906.00
Approved March 9, 1931.	

CHAPTER 66

(H. B. No. 39—Committee on Appropriations.)

STATE PENITENTIARY

An Act making an appropriation for the general maintenance, improvements and repairs, new building, equipment and miscellaneous expenses of the State Penitentiary.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$215,960.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, new building, equipment and miscellaneous expenses of the State Penitentiary, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salaries and Wages:

1. Administration .....	\$ 17,280.00
2. Faculty .....	960.00
3. Other Employees .....	72,920.00

Operating Expense:

1. Fuel (including freight) .....	29,000.00
2. Light, Power, Water, Gas .....	1,900.00
3. Telephone, Telegraph, Postage .....	1,800.00
4. Freight and express .....	1,500.00
5. Insurance, Bonds, etc. ....	12,200.00
6. Printing .....	700.00
7. Travel .....	600.00
8. Office Supplies .....	400.00
9. Educational Supplies .....	100.00
10. Power House and Electric Supplies .....	3,000.00
11. Janitor's Supplies .....	7,500.00
12. Inmates' Welfare .....	2,700.00
13. Food (including meats, etc.) .....	80,000.00
14. Clothing .....	18,500.00
15. Hospital and Medical Service .....	12,000.00
16. Warden's Expense .....	1,000.00
17. Bertillon and Escapes .....	3,000.00
18. Transportation and Clothing .....	9,500.00
19. Maintenance Autos, Trucks and Tractors .....	4,000.00
20. Inmates' Wages .....	22,500.00
21. Maintenance Farm and Shops .....	11,500.00

Total Maintenance .....	\$314,560.00
Less estimated income, all sources .....	120,000.00

Net Maintenance ..... \$194,560.00

Improvements and Repairs:

1. General .....	9,000.00
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New Buildings:

1. Root Cellar .....	3,500.00
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Equipment:

1. Kitchen .....	1,000.00
2. Farm .....	2,000.00
3. Plumbing, Carpenter, Blacksmith Shops .....	400.00
4. Hospital .....	300.00
5. Butter and Cheese Making Equipment .....	500.00

Miscellaneous Items:

1. Rent of Land .....	4,700.00
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Total ..... \$215,960.00

Approved March 9, 1931.



## CHAPTER 67

(H. B. No. 50—Committee on Appropriations.)

## STATE SCHOOL OF SCIENCE

An Act making an appropriation for the paying of salaries and wages, improvements and repairs and equipment of the State School of Science at Wahpeton, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$116,830.00, or so much thereof as may be necessary to pay the salaries and wages, improvements and repairs and equipment of the State School of Science at Wahpeton, North Dakota, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

## Salaries and Wages:

1. Administration .....	\$ 14,370.00
2. Faculty .....	99,000.00
3. Other Employees .....	12,460.00

## Operating Expense:

1. Fuel (including freight) .....	13,000.00
2. Light, Power, Water, Gas .....	5,000.00
3. Telephone, Telegraph, Postage .....	1,300.00
4. Freight and Express .....	700.00
5. Insurance, Bonds, etc. ....	4,100.00
6. Printing .....	2,500.00
7. Travel .....	400.00
8. Office Supplies .....	1,000.00
9. Educational Supplies .....	7,000.00
10. Power House Supplies .....	500.00
11. Janitor's Supplies .....	1,200.00
12. Students' Welfare .....	500.00
13. House Rent .....	3,600.00
14. Miscellaneous .....	2,500.00

Total Maintenance .....	\$169,130.00
Less estimated income, all sources .....	70,000.00

Net maintenance .....

\$ 99,130.00

## Improvements and Repairs:

1. General .....	5,000.00
2. Dormitory .....	2,000.00
3. Main Building .....	1,000.00
4. Boiler Room .....	1,500.00

## Equipment:

1. Trades .....	6,000.00
2. Library Books and Supplies .....	1,000.00
3. Class Room .....	1,200.00
	\$116,830.00
Total .....	

Approved March 9, 1931.

## CHAPTER 68

(S. B. No. 46—Committee on Appropriations.)

## STATE TRAINING SCHOOL

An Act making an appropriation for the general maintenance, improvements and repairs, new building, equipment and miscellaneous expenses of the State Training School, Mandan, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$312,140.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, new building, equipment and miscellaneous expenses of the State Training School, Mandan, North Dakota, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

## Salaries and Wages:

1. Administration .....	\$ 18,360.00
2. Faculty .....	17,650.00
3. Other Employees .....	66,730.00

## Operating Expense:

1. Fuel (including freight) .....	22,000.00
2. Light, Power, Water, Gas .....	6,700.00
3. Telephone, Telegraph, Postage .....	2,000.00
4. Freight and Express .....	2,000.00
5. Insurance, Bonds, etc. ....	17,400.00
6. Printing .....	500.00
7. Travel .....	3,500.00
8. Office Supplies .....	500.00
9. Educational Supplies .....	2,500.00
10. Power House Supplies .....	4,000.00
11. Janitor's Supplies .....	1,900.00
12. Students' Welfare .....	4,000.00
13. Food (including meats, etc.) .....	65,000.00
14. Clothing .....	25,000.00
15. Hospital and Medical Service .....	15,000.00
16. Student's Wage .....	500.00
17. Farm and Garden Maintenance .....	15,000.00

18. Laundry Supplies .....	1,750.00
19. Grounds .....	500.00
20. Carpenter and Plumbing Shops, Auto Truck Repairs, Gas and Oil .....	8,000.00
	<hr/>
Total Maintenance .....	\$300,490.00
Less estimated income, all sources .....	40,000.00
	<hr/>
Net Maintenance .....	\$260,490.00
Improvements and Repairs:	
1. Renovate Main Building .....	5,000.00
2. Dakota Hall .....	9,000.00
3. Paint Farm Buildings .....	500.00
4. Tunnels and Steam Lines .....	8,000.00
5. Water Tank, Lines and Hydrants .....	10,000.00
6. Roof—Power House .....	850.00
7. Roof—Maple Cottage .....	750.00
8. Rearrange and Enlarge Arts Building .....	5,000.00
New Buildings:	
Equipment:	
1. Vocational and Shop .....	950.00
2. Office .....	500.00
3. Library .....	1,500.00
4. Fire Fighting Equipment .....	500.00
5. Household .....	4,000.00
6. Farm .....	1,000.00
Miscellaneous Items:	
1. Burial Expense and Rewards .....	900.00
2. Land Rental .....	3,200.00
	<hr/>
Total .....	\$312,140.00

Approved March 10, 1931.

## CHAPTER 69

(H. B. No. 51—Committee on Appropriations.)

### TUBERCULOSIS SANATORIUM

An Act making an appropriation for the general maintenance, improvements and repairs, new buildings, equipment and miscellaneous expenses for the Tuberculosis Sanatorium at San Haven, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$230,225.00, or so much thereof as may be necessary for

paying the general maintenance, improvements and repairs, new buildings, equipment and miscellaneous expenses of the Tuberculosis Sanatorium at San Haven, North Dakota, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salaries and Wages:

1. Administration .....	\$ 14,250.00
2. Other Employees .....	133,000.00

Operating Expense:

1. Fuel (including freight) .....	40,000.00
2. Telephone, Telegraph, Postage .....	1,000.00
3. Freight and Express .....	4,000.00
4. Insurance, Bonds, etc. ....	7,700.00
5. Printing .....	1,000.00
6. Travel .....	600.00
7. Office Supplies .....	1,200.00
8. Educational Supplies .....	500.00
9. Power House Supplies .....	2,500.00
10. Janitor's Supplies .....	3,000.00
11. Patients' Welfare .....	2,000.00
12. Food (including meats, etc.) .....	132,000.00
13. Clothing, Bedding, etc. ....	7,000.00
14. Hospital and Medical Service .....	17,000.00
15. Farm, Garden and Dairy .....	12,000.00
16. Laundry, Water Softening Supplies .....	4,000.00
17. Refunds .....	1,000.00
18. Auto and Truck Maintenance .....	2,500.00
19. Dishes, Crockery, Glassware .....	2,000.00

Total Maintenance .....	\$388,250.00
Less estimated income, all sources .....	215,000.00

Net Maintenance .....	\$173,250.00
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Improvements and Repairs:

1. General Repairs .....	7,750.00
2. Wiring East Unit Infirmary .....	600.00
3. Changing Gravity to Vacuum System .....	2,000.00

New Buildings:

1. New Buildings, Miscellaneous (Settling Tank, Septic Tank, Truck Garage, X-Ray Vault, New Laundry, and Completing Basement Nurses' Room) .....	30,300.00
2. Fire Escapes .....	1,450.00

Equipment:

1. Kitchen Equipment .....	3,290.00
2. Fire Equipment .....	1,000.00

3. X-Ray Equipment, Miscellaneous .....	985.00
4. Infirmary Equipment .....	600.00
5. Miscellaneous Equipment .....	1,380.00
6. Power House Equipment .....	3,000.00

## Miscellaneous Items:

1. Dairy Herd Pasture .....	3,820.00
2. Goat Pasture Fence .....	800.00
Total .....	<u>\$230,225.00</u>

Approved March 9, 1931.

## CHAPTER 70

(S. B. No. 128—Renauld.)

## TUBERCULOSIS SANATORIUM—DEFICIT

An Act making an appropriation to provide for the payment of a deficit in the general maintenance fund of the North Dakota State Tuberculosis Sanatorium at San Haven.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys out of the state treasury not otherwise appropriated, the sum of \$15,000 for the purpose of paying a deficit in the general maintenance fund of the North Dakota State Tuberculosis Sanatorium at San Haven.

§ 2. EMERGENCY.] Whereas: It is necessary that the money hereby appropriated be immediately available to provide for the maintenance of said North Dakota Tuberculosis Sanatorium, for the remainder of this fiscal year, this act is hereby declared an emergency and shall take effect from and after its passage and approval.

Approved March 4, 1931.

## CHAPTER 71

(S. B. No. 49—Committee on Appropriations.)

## UNIVERSITY

An Act making an appropriation to pay for the general maintenance, improvements and repairs, new building, equipment, public health laboratories, lignite testing, clay testing and miscellaneous expenses of the State University at Grand Forks, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$1,170,897.60, or so much thereof as may be necessary to pay the general maintenance of the State University at Grand Forks,

North Dakota, together with improvements and repairs, new building, equipment, miscellaneous items, public health laboratories, lignite testing and clay testing, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit :

Maintenance—Education Department :

1. College of Engineering .....	\$153,740.00
2. College of Liberal Arts .....	309,990.00
3. School of Commerce .....	63,640.00
4. School of Education .....	172,580.00
5. Graduate Division .....	1,020.00
6. School of Law .....	50,620.00
7. School of Medicine .....	45,150.00
8. Military and Physical Training for Men .....	34,710.00
9. Library .....	46,440.00
10. Summer Session .....	38,000.00
11. Office of Dean of Men .....	8,300.00
12. General Educational Service .....	18,000.00
13. Dispensary .....	5,000.00
14. Leaves of Absence .....	1,000.00
15. Office of Dean of Women .....	7,500.00
Extension Division .....	35,000.00

Maintenance—Administration :

1. President's Office .....	24,000.00
2. Business Office .....	23,320.00
3. Registrar's Office .....	25,000.00
4. Stenographic Bureau .....	11,400.00
5. Telephones and Telegraph .....	9,556.00
6. Publications and General Printing .....	5,500.00
7. Divisional Expense .....	800.00

Maintenance—Property :

1. Grounds and Property .....	20,000.00
2. Buildings Maintenance, Including Janitors, Repairs, etc. ....	61,000.00
3. Power Plant (Direct) .....	122,000.00
4. Power Plant (Indirect) .....	3,300.00
5. Office of Supt. of Buildings and Grounds....	44,000.00

Total Maintenance .....	\$1,340,566.00
Less estimated income .....	278,000.00

Net Maintenance .....	\$1,062,566.00
Improvements and Repairs .....	15,350.00

Equipment :

1. New Pianos .....	1,500.00
2. New Furniture for Dormitories .....	2,500.00

## Miscellaneous:

1. Appraisal .....	700.00
2. Insurance .....	21,375.00
3. Special Taxes .....	7,891.60
4. Campus Water Main .....	9,015.00

## Public Service:

1. Public Health Laboratories	
1. University of North Dakota .....	22,000.00
1-A. Substation, Bismarck .....	8,000.00
1-B. Substation, Minot .....	6,200.00
1-C. Substation, Fargo .....	5,800.00
2. Clay Testing .....	4,000.00
3. Lignite Testing and Investigations .....	10,000.00

Total .....	56,000.00
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Less Local Income .....	6,000.00
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Net Public Service .....	50,000.00
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Total for All Purposes .....	\$1,166,657.60
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Approved March 10, 1931.

## CHAPTER 72

(H. B. No. 278—Acheson and Halvorson.)

## CONSERVATION LAKES AND STREAMS

An Act providing for the conservation of lakes and streams of North Dakota under the supervision of the state engineer, and making appropriation therefor.

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

§ 1. The state engineer of the State of North Dakota is hereby authorized and empowered to take such action as may be necessary to conserve the water levels and rehabilitating the streams and brooks in the Turtle Mountain region of North Dakota lying in Bottineau and Rolette Counties, and to do any and all acts necessary in bringing about such rehabilitation of streams, lakes and brooks.

§ 2. There is hereby appropriated from funds in the state treasury not otherwise appropriated, to be used for the above purpose, the sum of \$7000.00.

Approved March 11, 1931.

CHAPTER 73

(S. B. No. 27—Committee on Appropriations.)

LIVE STOCK SANITARY BOARD

An Act making an appropriation for the per diem and general expenses of the State Live Stock Sanitary Board.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$33,860.00, or so much thereof as may be necessary to pay the general expenses of the State Live Stock Sanitary Board for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salary—Executive Officer and State Veterinarian.....	\$ 7,200.00
Clerkhire: Stenographer and Clerk .....	2,760.00
Postage .....	400.00
Office Supplies .....	150.00
Furniture and Fixtures .....	250.00
Printing .....	750.00
Miscellaneous .....	400.00
Services and Expenses of Board's Agents .....	20,000.00
Insurance Workmen's Compensation Bureau .....	750.00
Compensation and Expenses of Members of State Live Stock Sanitary Board .....	1,200.00
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Total .....	\$33,860.00

Approved February 13, 1931.

CHAPTER 74

(H. B. No. 16—Committee on Appropriations.)

MINIMUM WAGE DEPARTMENT

An Act making an appropriation for the purpose of paying salary and miscellaneous general expenses of the department of minimum wage.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$5,000.00, or so much thereof as may be necessary to pay salary and all miscellaneous and general expenses in carrying out the provisions of Chapter 174, Laws of 1919, the same being Sections 396b1 to 396b16 of the Supplement to the 1913 Compiled Laws



of North Dakota, and amendments thereto, relative to minimum wage, for the biennium beginning July 1st, 1931, and ending June 30, 1933, to-wit:

Salary .....	\$3,240.00
Postage .....	250.00
Office Supplies .....	100.00
Printing .....	280.00
Miscellaneous .....	80.00
Travel Expense .....	600.00
Hearings, Conferences, Witness and Legal Fees .....	450.00
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Total .....	\$5,000.00

Approved February 13, 1931.

### CHAPTER 75

(H. B. No. 25—Committee on Appropriations.)

#### NATIONAL GUARD

An Act making an appropriation to provide funds for the maintenance of the North Dakota National Guard or State Militia, as provided for under Chapter 35 of the Political Code of the Compiled Laws of North Dakota for the year 1913 and amendments thereto, and to meet other requirements prescribed by the federal statutes.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$70,000.00, or so much thereof as may be necessary to provide proper maintenance for the North Dakota National Guard or State Militia, as prescribed in Chapter 35 of the Political Code of the Compiled Laws of North Dakota for the year 1913 and amendments thereto, and to meet other requirements prescribed by the federal statutes, for the biennium beginning July 1st, 1931, and ending June 30th, 1933.

Approved March 2, 1931.

### CHAPTER 76

(H. B. No. 12—Committee on Appropriations.)

#### PRESIDENTIAL ELECTORS

An Act making an appropriation to pay the expenses and per diem of presidential electors as prescribed by Section 1038 of the Compiled Laws of 1913.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$500.00, for the biennium, or so much thereof as may be

necessary, to pay the expenses and per diem of presidential electors as prescribed by Section 1038 of the Compiled Laws of North Dakota for 1913.

Approved January 27, 1931.

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#### CHAPTER 77

(S. B. No. 20—Committee on Appropriations.)

##### MISCELLANEOUS REFUNDS

An Act making an appropriation for the purpose of refunding money erroneously paid into or credited to the general fund.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$4,000.00, for the biennium beginning July 1, 1931, and ending June 30, 1933, or so much thereof as may be necessary for the purpose of making certain refunds out of the general fund and which is known as the miscellaneous refunds account, used for the purpose of refunding money erroneously paid into or credited to the general fund.

Approved January 31, 1931.

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#### CHAPTER 78

(H. B. No. 186—Timm.)

##### REIMBURSEMENT SCHOOL AND INSTITUTIONAL FUNDS FOR HAIL INDEMNITY TAXES

An Act making an appropriation out of the hail insurance fund, to reimburse the school and institutional funds, for hail indemnity taxes paid on lands acquired by the state through foreclosure proceedings, and providing for the refund thereof by the state auditor.

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

§ 1. APPROPRIATION, VERIFICATION, REFUND.] There is hereby appropriated out of the state hail insurance fund in the state treasury the sum of \$29,815.95, or so much thereof as may be necessary to reimburse the school and institutional funds, for hail indemnity taxes paid by the state land department, on lands acquired by the state through foreclosure proceedings. The state land commissioner must file with the hail insurance commissioner, a statement from each county treasurer of such taxes paid by the state land department, and at the time of such filing, must exhibit for verification purposes, the original receipts for such taxes paid. The hail insurance commissioner shall forthwith verify such payments and forthwith certify the same to the state auditor for payment.

Approved March 14, 1931.

## CHAPTER 79

(H. B. No. 311—Twichell and Swett.)  
Approved by Delayed Bills Committee.

REPLACEMENT OF HOUSE AND SENATE GROUP  
PHOTOGRAPHS

An Act making an appropriation from the state treasury of the sum of two thousand one hundred and seventy-two (\$2,172.00) dollars, or so much thereof as may be necessary, as an expense of the government, in the reproduction and replacement of house and senate group photographs destroyed in the Capitol fire.

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

§ 1. APPROPRIATION.] There is hereby appropriated, as an expense of the government, out of funds in the state treasury not otherwise appropriated, the sum of two thousand one hundred and seventy-two (\$2,172.00) dollars, or so much thereof as may be necessary, to reproduce and replace the group photographs, respectively of the house and senate of the Tenth to and including the Twenty-first Legislative Assemblies, which were destroyed in the Capitol fire.

§ 2. WHO APPROPRIATED TO, WHEN TO BE PAID.] Such sum to be paid out of the state treasury, as follows:

To the Slorby Studio of Bismarck, North Dakota, upon delivery by such studio to the secretary of state of each of such reproduced group photographs of the house of the 1913 to the 1929 Legislative Sessions, inclusive, upon the filing with the state auditor of the receipt of the secretary of state, therefor, the sum of one hundred (\$100.00) for each such reproduction.

To said Slorby Studio upon the delivery by said studio to the secretary of state of each of such reproduced group photographs of the senate of the 1918 to 1929 Legislative Session, inclusive, upon said Slorby Studio filing with the state auditor of the receipt of the secretary of state therefor, the sum of Fifty (\$50.00) dollars for each such reproduction.

To the said Butler Studio of Bismarck, North Dakota, upon delivery to the secretary of state of each such reproduced group photograph of the house of the 1907 to 1911 Legislative Sessions, inclusive, upon the filing with the state auditor of the receipt of the secretary of state therefor, the sum of One Hundred Sixty-nine (\$169.50) dollars and fifty cents.

To the said Butler Studio upon delivery to the secretary of state of each such reproduced photograph of the senate of the 1907 to the 1911 Legislative Sessions, inclusive, upon the filing with the state auditor of the receipt of the secretary of state therefor, the sum of seventy-three (\$73.50) dollars and fifty cents.

To the said Butler Studio upon delivery to the secretary of state of each such reproduced group photograph of the senate of the 1923 to the 1929 Legislative Sessions, inclusive, upon the filing with the state auditor of the receipt of the secretary of state therefor, the sum of fifty (\$50.00) dollars.

Provided, however, that no such group photograph shall be accepted by the secretary of state, except the same is approved by at least two of the following named state officials, viz., the governor, state auditor and secretary of state;

Provided further, that all payments made hereunder shall be made upon warrants drawn by the state auditor; and that until such delivery of all group photographs as hereinbefore provided be made by the said Slorby Studio and by said Butler Studio, there shall be retained by the state treasurer the sum of one hundred (\$100.00) dollars of any sums due to each of said parties, hereunder.

Approved March 11, 1931.

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## CHAPTER 80

(H. B. No. 251—Rulon.)

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### COMPENSATION STERILIZATION EXAMINERS

An Act to amend and re-enact Section 14 of Chapter 263, Session Laws of 1927, relating to sterilization of feeble minded, insane, etc., by board of examiners and make an appropriation therefor.

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

§ 1. AMENDMENT.] That Section 14 of Chapter 263, Session Laws of 1927, is hereby amended and re-enacted to read as follows:

§ 14. As compensation for their services as members of said board of examiners, each of them shall be entitled to a per diem of (\$10.00) ten dollars, per day while in the actual performance of their duties and actual necessary expenses to be paid out of the funds, hereby provided. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of three hundred (\$300) dollars, for the biennium ending June 30, 1933, or so much thereof as may be necessary to pay the per diem and necessary expense of such board, payment to be made from such fund on the approval of the board of administration.

Approved March 9, 1931.

## CHAPTER 81

(S. B. No. 239—Sperry.)

## TRANSFER COMPANY A FUND

An Act transferring \$5,000.00 from the Company A, North Dakota National Guard, special fund to the militia fund of the State of North Dakota, and designating the manner of its disbursement.

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

§ 1. There is hereby transferred from the Company A, North Dakota National Guard, special fund the sum of \$5,000.00 to the militia fund of the state of North Dakota for the benefit of Company A, 164th Infantry, and other military organizations located at Bismarck, North Dakota, said sum to be disbursed by the adjutant general of the State of North Dakota for the purpose of purchasing equipment and supplies for Company A, 164th Infantry, and other military organizations located at Bismarck, North Dakota, and for bills heretofore incurred by said Company A, 164th Infantry, or Company A, First North Dakota Regiment.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this act shall take effect and be in full force immediately upon its passage and approval.

Approved March 11, 1931.

## CHAPTER 82

(H. B. No. 222—Fitch.)

## TRANSFER RETURNED SOLDIER FUND

An Act transferring the sum of three hundred and fifty thousand dollars from the "returned soldier's fund" created and existing under the provisions of Section 3187c1 of the Supplement to the Compiled Laws of 1913, to the general fund of the state.

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

§ 1. The sum of three hundred and fifty thousand dollars (\$350,000.00) is hereby transferred from the special fund known as the "returned soldier's fund," created and existing under the provisions of Section 3187c1 of the Supplement to the Compiled Laws of 1913, to the general fund of the State of North Dakota; there now being in such special fund more than this amount in excess of all sums now necessary to the payment of compensation of returned soldiers.

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

Approved March 9, 1931.

CHAPTER 83

(H. B. No. 217—Johnston.)

TRANSFER SPECIAL BRIDGE FUND

An Act transferring the sum of two hundred thousand dollars (\$200,000.00) from the "Special Bridge Fund" provided by Subdivision (C) of Section 2976t15 of the Supplement to the Compiled Laws of North Dakota for 1913, to the "State Highway Fund."

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

§ 1. APPROPRIATION.] The sum of two hundred thousand dollars (\$200,000.00) is hereby transferred from the "Special Bridge Fund" existing under the provisions of Subdivision (C) of Section 2976t15 of the Supplement to the Compiled Laws of 1913, to the "State Highway Fund"; there now being in such "Special Bridge Fund" more than said amount in excess of all sums appropriated for or necessary to the construction of bridge projects.

Approved March 11, 1931.

CHAPTER 84

(H. B. No. 28—Committee on Appropriations.)

APPROPRIATION—TRANSPORTATION OFFICER

An Act making an appropriation to pay the salary, travel expense and miscellaneous items of the State Transportation Officer.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$29,900.00, or so much thereof as may be necessary to pay the salary, travel and miscellaneous items of the State Transportation Officer for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salary .....	\$ 4,800.00
Travel Expense .....	25,000.00
Miscellaneous .....	100.00
	<hr/>
Total .....	\$29,900.00

Approved March 7, 1931.

## CHAPTER 85

(H. B. No. 48—Committee on Appropriations.)

## VETERANS' SERVICE COMMISSIONER

An Act making an appropriation for the purpose of paying salary, clerkhire, travel and general expenses of the office of Veterans' Service Commissioner as prescribed by Chapter 281, Laws of 1927, and Chapter 74, Laws of 1929.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$13,000.00, or so much thereof as may be necessary, to pay salary, clerkhire, travel and general expenses of the office of Veterans' Service Commissioner as prescribed by Chapter 281, Session Laws of North Dakota for 1927, and Chapter 74, Session Laws of North Dakota for 1929, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salary .....	\$ 6,000.00
Clerkhire .....	3,000.00
Miscellaneous .....	1,000.00
Travel Expense .....	2,400.00
Rent .....	600.00
Total .....	\$13,000.00

Approved March 7, 1931.

## CHAPTER 86

(H. B. No. 18—Committee on Appropriations.)

## VETERINARY MEDICAL EXAMINERS

An Act making an appropriation to pay the expenses of the state board of veterinary medical examiners as authorized under Section 2711 to 2720, inclusive, of the Compiled Laws of North Dakota for the year 1913.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$847.00, or so much thereof as may be necessary to pay per diem, mileage, clerkhire, travel and miscellaneous expenses of the state board of veterinary medical examiners as authorized under Sections 2711 to 2720, inclusive, of the Compiled Laws of North Dakota for the year 1913, for the biennium beginning July 1st, 1931, and ending June 30th, 1933.

Approved February 13, 1931.

CHAPTER 87

(H. B. No. 37—Committee on Appropriations.)

VOCATIONAL EDUCATION AND REHABILITATION

An Act making an appropriation for the purpose of carrying out the provisions of Chapter 203, Session Laws 1919, and Chapter 115, Session Laws 1921, the same being Sections 1471b1 to 1471b9 and 1471c1 to 1471c8 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. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$30,050.00, or so much thereof as may be necessary to pay the expenses of carrying out the provisions of Chapter 203, Session Laws 1919 and Chapter 115, Session Laws 1921, the same being Sections 1471b1 to 1471b9 and 1471c1 to 1471c8 of the Supplement to the 1913 Compiled Laws of North Dakota, relative to vocational education and vocational rehabilitation, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salary .....	\$ 3,000.00
Clerkhire .....	1,000.00
Postage .....	150.00
Office Supplies .....	100.00
Furniture and Fixtures .....	100.00
Printing .....	400.00
Miscellaneous .....	100.00
Travel Expense .....	1,200.00
Aid to Vocational Schools .....	10,000.00
Civilian Vocational Rehabilitation .....	14,000.00
	\$30,050.00

Approved March 7, 1931.

CHAPTER 88

(S. B. No. 17—Committee on Appropriations.)

WOLF, COYOTE AND MAGPIE BOUNTY

An Act making an appropriation for the purpose of paying a bounty on wolves and coyotes as provided for under Sections 2645 to 2656, inclusive, of the Supplement to the Compiled Laws of 1913 as amended by Chapter 283, Session Laws of 1927, and magpie bounty as provided for by Sections 2656b1 to 2656b9, inclusive, 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. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the



sum of \$50,000.00, or so much thereof as may be necessary for the purpose of paying the bounty on wolves and coyotes as prescribed under Sections 2645 to 2656, inclusive, of the Supplement to the Compiled Laws of 1913, as amended by Chapter 283, Session Laws of 1927, and magpie bounty as provided for by Sections 2656b1 to 2656b9, inclusive, of the Supplement to the 1913 Compiled Laws of North Dakota.

Approved January 31, 1931.

### CHAPTER 89

(H. B. No. 62—Committee on Appropriations.)

#### WORKMEN'S COMPENSATION BUREAU

An Act making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the Workmen's Compensation Bureau.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury in the Workmen's Compensation Fund, not otherwise appropriated, the sum of \$126,576.00, or so much thereof as may be necessary for the payment of salaries of the members of the bureau, of the secretary and all actuaries, accountants, inspectors, examiners, experts, clerks, physicians, stenographers, and other assistants, and all other expenses of the bureau authorized in the Workmen's Compensation Acts, including rent for offices of the bureau, and the premium on the bond of the State Treasurer, for the biennium beginning July 1st, 1931, and ending June 30th, 1933, to-wit:

Salary .....	\$ 16,800.00
Clerkhire .....	66,176.00
Postage .....	7,500.00
Office Supplies .....	2,600.00
Furniture and Fixtures .....	2,500.00
Printing .....	5,500.00
Miscellaneous .....	10,000.00
Travel Expense .....	6,000.00
Automobile Equipment and Maintenance .....	1,500.00
Legal Expense .....	8,000.00
Total .....	<u>\$126,576.00</u>

Approved March 7, 1931.

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# ATTORNEYS

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## CHAPTER 90

(H. B. No. 279—Pfenning.)

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### QUALIFICATION FOR ADMISSION TO PRACTICE OF LAW

An Act to amend and re-enact Section 790 of the Compiled Laws of North Dakota for the year 1913.

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

§ 1. AMENDMENT.] That Section 790 of the Compiled Laws of North Dakota for the year 1913, be amended and re-enacted to read as follows:

§ 790. QUALIFICATION OF APPLICANTS.] Applicants for admission to practice as attorneys and counselors at law must be residents of this state, at least twenty-one years of age, of good moral character, and must have actually and in good faith pursued a regular course of study of the law for at least three full years, either in the office of a member of the bar of this state residing herein and in regular practice, or with and under the immediate direction of a judge of the supreme court, district court, or county court having increased jurisdiction, of this state, or in some reputable law school of the United States, or partly in such office and partly in such law school; but in computing such period of study, the school year of any such law school consisting of not less than thirty-five weeks, exclusive of vacation, shall be considered equivalent to one full year; provided, however, that after July 1, 1936, such applicants shall have completed, with the required passing grades, two years (64 semester hours or 96 quarter hours) of college or university work in the State University of the State of North Dakota, or the Agricultural College of the State of North Dakota, or some equally reputable college or university, with course of study which shall include courses in English literature, American and English history, economics, and civil government.

Approved March 11, 1931.

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# AVIATION

## CHAPTER 91

(H. B. No. 99—McDowall and Crockett.)

### LICENSE REQUIREMENT AIRCRAFT

An Act to amend and re-enact Section 3 of Chapter 85 of the 1929 Session Laws relating to aircraft license.

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

§ 1. AMENDMENT.] That Section 3 of Chapter 85 of the 1929 Session Laws of the State of North Dakota be amended and re-enacted as follows:

§ 3. AIRCRAFT LICENSE REQUIRED.] No civil aircraft shall be flown in this state for hire unless such aircraft is licensed as provided by Section 5 of this act, or shall have been licensed under the federal law.

Approved February 13, 1931.

## CHAPTER 92

(H. B. No. 223—Thompson by Request.)

### PUBLIC AIRPORTS AND LANDING FIELDS

An Act authorizing counties, cities, towns, villages and townships to acquire, operate and maintain airports or landing fields; to provide for air rights for approaches thereto; to adopt regulations and establish charges, fees and tolls for the use thereof; to lease such airports or landing fields and equipment to private parties for operation; granting police powers over such airports or landing fields; and limiting liability in the operation thereof.

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

§ 1. All counties, cities, towns, villages and townships of this state are hereby authorized, separately or jointly, to acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate, regulate, and police airports and landing fields for the use of aircraft either within or without the geographical limits of such political subdivisions, and may use for such purpose or purposes any available property that is now or may at any time hereafter be owned or controlled by such political subdivisions.

§ 2. Any property acquired, owned, leased, controlled, or occupied by such counties, cities, towns, villages and townships for the purpose or purposes enumerated in Section 1 of this act shall be and is hereby declared to be acquired, owned, leased, controlled, or occupied for a public purpose and as a matter of public need; and

there shall be no liability on the part of (any) county, city, village or township in connection therewith, or operation thereof, except to its own employees.

§ 3. Private property needed by a county, city, town, village and township for an airport or landing field or for the expansion of an airport or landing field, may be acquired by grant, purchase, lease, or other means, if such political subdivision is able to agree with the owners of said property on the terms of such acquisition, and otherwise by condemnation and/or excess condemnation in the manner provided by law under which such political subdivision is authorized to acquire real property for public purposes.

§ 4. The purchase price or award for real property acquired in accordance with the provisions of this act for an airport or landing field may be paid for by appropriation of moneys available therefor or wholly or partly from the proceeds of the sale of bonds of said counties, cities, towns, villages and townships as the proper officials of such political subdivisions shall determine; provided, however, that any bonds for such purpose shall be authorized and issued under the provisions of Chapter 196, Laws of 1927, and acts amendatory thereto.

§ 5. Where necessary, in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports and landing fields acquired or maintained under the provisions of this act, such counties, cities, towns, villages and townships are hereby granted authority to acquire such air rights over private property as are necessary to insure safe approaches to the landing areas of said airports and landing fields. Such air rights may be acquired by grant, purchase, lease, or condemnation in the same manner as is provided in Section 3 of this act for the acquisition of the airport or landing field itself or the expansion thereof.

§ 6. Such counties, cities, towns, villages and townships are hereby authorized to acquire the right or easement for a term of years or perpetually to place and maintain suitable marks for the daytime, and to place, operate, and maintain suitable lights for the night time marking of buildings, or other structures or obstructions interfering with the safe operation of aircraft utilizing airports and landing fields acquired or maintained under the provisions of this act. Such rights or easements may be acquired by grant, purchase, lease, or condemnation in the same manner as is provided in Section 3 of this act for the acquisition of the airport or landing field itself or the expansion thereof.

§ 7. Said counties, cities, towns, villages and townships which have established or may hereafter establish airports or landing fields or which acquire, lease, or set apart real property for such purpose or purposes, are hereby authorized:

(a) To construct, equip, maintain, and operate the same, or to vest authority for the construction, equipment, improvement, maintenance, and operation thereof, in an officer, board, or body of such political subdivision. The expenses of such construction, equipment, improvement, maintenance, and operation shall be a responsibility of said political subdivision.

(b) To adopt regulations and establish charges, fees, and tolls for the use of such airports or landing fields and fix penalties for the violation of said regulations.

(c) To lease such airports or landing fields to private parties for operation or to lease or assign to private parties for operation, space, area, improvements, and equipment on such airports or landing fields, provided in each case that in so doing the public is not deprived of its rightful use thereof.

§ 8. The local public authorities having power to appropriate moneys within the counties, cities, towns, villages and townships acquiring, establishing, developing, operating, maintaining, or controlling airports or landing fields under the provisions of this act, are hereby authorized to appropriate and cause to be raised by taxation or otherwise in such political subdivisions, moneys sufficient to carry out therein the provisions of this act; also, to use for such purpose or purposes moneys derived from said airports or landing fields.

§ 9. Counties, cities, towns, villages and townships acquiring, establishing, developing, operating, maintaining, or controlling airports or landing fields under the provisions of this act without the geographical limits of such subdivisions are hereby specifically granted the same police powers over such airports or landing fields as they may now exercise or may hereafter be authorized to exercise within the geographical limits of such subdivisions.

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

Approved March 11, 1931.

# BANKS AND BANKING

## CHAPTER 93

(S. B. No. 111—Committee on Banks and Banking.)  
By Request of the Voluntary Banking Code Commission

### ORGANIZATION AND MANAGEMENT ANNUITY, SAFE DEPOSIT, SURETY AND TRUST COMPANIES

An Act to amend and re-enact Section 5205, Supplement to the Compiled Laws of 1913, and Section 5206 of the Compiled Laws of North Dakota for 1913, as amended by Chapter 250 of the Session Laws of 1929, and Sections 5208, 5219 and 5220 of the Compiled Laws of North Dakota for 1913, relating to the organization, government and operation of annuity, safe deposit, surety and trust companies within the State of North Dakota.

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

§ 1. AMENDMENT.] Section 5205, Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

#### § 5205.

A. FORMATION. Any number of persons, not less than nine, not less than three of whom must be residents of this state, may associate themselves, and become incorporated for the purpose of transacting business as an annuity, safe deposit, surety and trust company, upon complying with the provisions of this act, and any company so formed or heretofore formed, and now doing business, and its successors, shall be entitled to the rights and privileges, and subject to the duties and obligations herein provided, and its existence shall be perpetual.

B. OTHER LAWS APPLICABLE. The provisions of Chapter 12 of the Civil Code of North Dakota for the year 1913 and all acts amendatory thereof, and Sections 24, 25, 28, 31, 34, 37, 38, 39, 40, 42, 43, 44, 52, 53, 54, 55, 57, 58, 59, 60, 61, 62, 64, 65, 66, and 67 of Senate Bill No. 82 of the 22nd Legislative Session relating to banks and banking, shall be applicable to and be observed by all corporations now or hereafter organized under this act, except as to provisions thereof inconsistent with the provisions of this act.

C. COMPLIANCE WITH LAWS GOVERNING. PENALTY.] No individual, firm, company, copartnership, or corporation, either domestic or foreign, not organized under this act nor subject to the provisions thereof, excepting only national banking corporations and the Bank of North Dakota, shall hereafter in signs, letterheads, advertising, or in any other way make use of and display in connection with its business such words as "trust," "trust company," or any other word or words of like import; nor shall there be done or performed by any person or concern, whatsoever, anything in the

nature of the business of a trust company, unless and until such business is regularly organized and authorized under this act; and any individual, firm, company, copartnership or corporation, either foreign or domestic, now making use of any of the said words or titles, or similar words, in violation hereof, shall within ninety days after the enactment of this law in every way discontinue the use of such words or titles. If any heretofore organized firm or corporation shall have been granted a charter permitting it to use any such word, words, or title contrary to the intent hereof, and, by reason of the rights under such charter, the provisions of this act may not be enforced against such firm or corporation during the life of such charter, no renewal charter shall be granted such corporation permitting the continuance of the use of such word, words or title, contrary hereto or in violation hereof. Any firm or corporation, which, by reason of an existing charter right under any statute enacted prior hereto, may be held by the court to be not affected hereby, and which therefore refuses to comply with the provisions of this act, shall hereafter prominently and continuously display in plain, legible and clearly discernible lettering on all of its signs, stationery, circulars and advertising, and in all of its printed or written matter, and as prominently as is such other matter displayed, the following words and language: "NOT UNDER THE SUPERVISION OF THE STATE BANKING BOARD OR THE STATE EXAMINER."

Any person, firm, company, copartnership, corporation, domestic or foreign, violating any provision of this section shall forfeit to the state \$100.00 for every day or part thereof during which such violation continues. Upon action brought by the state examiner or any aggrieved person, the court may issue an injunction restraining any such person, firm, company, copartnership or corporation from further using such words, terms or phrases in violation of this act or from further transacting business in such a way or manner as to lead the public to believe that its business is in whole or in part of the nature of a trust company, or that it is under the supervision of the State Banking Board or the State Examiner.

§ 2. AMENDMENT.] Section 5206 of the Compiled Laws of North Dakota for 1913, as amended by Chapter 250 of the Session Laws for the year 1929, is hereby amended and re-enacted to read as follows:

§ 5206. CAPITAL STOCK. AMOUNT. INVESTED. The amount of capital stock of any such corporation hereafter organized shall not be less than one hundred thousand dollars, and the same shall be divided into shares of one hundred dollars each. No such corporation hereafter organized shall be authorized to transact any business or exercise any powers as such, until the aforesaid minimum amount of capital stock shall have been subscribed for, and not less than fifty thousand dollars thereof shall have been actually paid in,

invested and deposited as hereinafter provided. Said fifty thousand dollars shall be invested in bonds of the United States, or of the State of North Dakota, or in bonds of other states, which shall have the approval of the State Auditor, and State Examiner, or in bonds or obligations of townships, school districts, cities, villages and counties within the State of North Dakota, which bonds or obligations have not been issued as a bonus for, or purchase of, or subscription to any railroad or other private enterprise, and whose total bonded indebtedness does not exceed five per centum of the then assessed valuation thereof; or in bonds or promissory notes, secured by first mortgages or deeds of trust, upon unencumbered real estate, situated within the State of North Dakota, worth two and one-half times the amount of the obligation so secured; or in the mortgage bonds of any railroad corporation, incorporated under the laws of any state of the United States, provided that during each of the ten fiscal years of such railroad's corporate existence next preceding the date of such investment: (1) such railroad corporation shall have paid the matured principal and interest of all of its mortgage indebtedness, and, (2) such railroad shall have paid in dividends in cash to its stockholders, an amount of at least four per cent per annum upon all of its outstanding stock of every class; or in the bonds issued or assumed by a corporation supplying electric energy or artificial gas, or both, for light, heat, power and other purposes, or furnishing telephone or telegraphic service, provided that such bonds are secured by a first mortgage on at least seventy-five per centum of the property of such corporation or by a first and refunding mortgage, on at least seventy-five per centum of such property, containing provisions for retiring all prior liens upon such property, and provided further that the issuing corporation is incorporated within the United States and is subject to regulation or supervision either as to its rates, charges, or accounts, or as to the issue of its said bonds, by a public service commission or any board, body or officials having like powers of the United States or of any state thereof, and provided such operating corporation has annual gross earnings of at least one million dollars, seventy-five per centum of which gross earnings have come, either directly or through subsidiary corporations, from the sale of gas or electricity or the rendering of telephone or telegraphic service, and not more than fifteen per centum from any other one kind of business, and which corporation has a record on its own behalf or for its predecessors, or constituent companies, of having officially reported net earnings at least twice its interest charges on all outstanding bonded indebtedness for the period of five years immediately preceding the investment and having outstanding junior securities and/or stock, the par or book value of which is not less than two-thirds of its total bonded debt and which corporation shall have all necessary franchises, indeterminate permits or agreements with duly constituted public authorities, to operate in the territory it serves in which at least seventy-five per centum of



its gross income is earned, or in the bonds of any constituent or subsidiary company of any such operating company which are secured by a first mortgage on at least seventy-five per centum of all property of such constituent or subsidiary company, provided such bonds are to be retired or refunded by a junior mortgage, the bonds of which are eligible hereunder, and the deposit of such corporation shall not be permitted, at any time, to be less than fifty thousand dollars in amount, and not less than one-sixth of its capital stock.

§ 3. AMENDMENT.] Section 5208 of the Compiled Laws of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 5208. DIRECTORS. QUALIFICATIONS. TERM. VACANCIES.] All the corporate powers of such corporation shall be exercised by a board of directors of not less than nine nor more than fifteen in number, and such officers and agents as they shall elect or appoint. A majority of such directors must be citizens of the State of North Dakota, and every director must own in his own right, free from hypothecation or pledge for any debt, at least ten shares of capital stock of the association of which he is a director, which said shares shall be known as "director's qualifying shares" and shall be issued and placed in charge of the state examiner, as by law provided; any director who ceases to be the owner of ten shares of the stock free and nonhypothecated, or who becomes in any manner disqualified shall thereupon vacate his place. Every such director when elected or appointed shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such association, that he will not knowingly violate or willingly permit to be violated, any of the provisions of this chapter, that he is a bona fide owner of the number of shares of stock required by this chapter to become a director, standing in his own name on the books of the association, and that said stock is in his possession and control or in the possession of the state examiner and is not hypothecated or in any way pledged as security for any debt. Such oath, subscribed by the director making it, and certified by the officer before whom it was taken, together with such qualifying shares, unless such shares are already on file with the state examiner, shall at once be transmitted to the state examiner to be filed in his office. The articles of association must state the names and residences of the first board of directors, of whom the first named one-third shall serve for a period of three years, the second one-third for a period of two years and the balance thereof shall serve for a period of one year from the date fixed for the commencement of such corporation. In case any of the persons so named shall not become stockholders to the amount required to qualify, or if they fail or refuse to qualify from any cause, the directors who shall qualify must elect qualified stockholders to fill such vacancies, and thereafter, at each annual meeting of the stockholders, directors shall be elected to serve three years in place of those whose terms shall then expire.

§ 4. AMENDMENT.] Section 5219 of the Compiled Laws of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 5219. CAPITAL. INCREASE OF. DEPOSIT. RE-INSURANCE. Every such corporation, organized under the provisions of this act, shall have the full amount of its subscribed capital stock paid in within two years after commencement of business, and such payment may be made in such installments as may be prescribed in its by-laws, or by resolution of its board of directors, and such capital stock may be increased from time to time by a majority vote of all the stockholders of such corporation, voting at any regularly called general or special meeting, in the notice of which election, the object thereof is fully set out, but no such increase of capital stock shall be valid unless paid in cash, and verified to the State Treasurer in writing, and under oath by the president or secretary, or managing officer of such corporation. Whenever it shall appear to the satisfaction of the State Examiner, from an examination of the business of such company, that the deposit made by it with the State Treasurer, as hereinbefore provided, is insufficient to insure the safety of its deposits, trust and contingent liabilities, he shall make an order, as hereinafter provided, requiring an increase of such deposit, then such company shall deposit with the State Treasurer, other and further securities of the kind, class and value designated in Section 2 hereof, in an amount sufficient to comply with said order.

§ 5. AMENDMENT.] Section 5220 of the Compiled Laws of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 5220. STATE EXAMINER. DUTY OF.] It shall be the duty of the State Examiner, once in every six months, or oftener if required by the written, verified information filed with him by any person interested in any trust with which such corporation may be charged, and without notice to the officers of such company, to make a full, true, complete and accurate examination and investigation of the affairs of such corporation and to assume and exercise over such corporation, its business, officers, directors and employees, all the power and authority conferred upon him over banking and other financial or moneyed corporations. If it shall appear to the State Examiner from any examination made by him that such corporation has committed a violation of the law or that it is conducting business in an unsafe or unauthorized manner, or that the deposit made by it with the State Treasurer as hereinbefore provided, is insufficient to protect the interests of all concerned, then the State Examiner shall, by an order under his hand and the seal of his office, and addressed to such corporation, direct and (the) discontinuance of such illegal or unsafe practice, and to conform with the requirements of the law, or to make a further deposit with the State Treasurer in an amount sufficient to insure the safety of its trusts, deposits and liabilities. And

whenever such corporation shall refuse to comply with any such order as aforesaid, or whenever it shall appear to the said State Examiner that it is unsafe or inexpedient for any such corporation to continue to transact business, he shall communicate the facts to the Attorney General, and thereupon he shall be authorized to institute such proceedings against any such corporation, as is now, or may hereafter be provided by law, in case of insolvent corporations or such other proceedings as the case may require.

Approved March 11, 1931.

## CHAPTER 94

(S. B. No. 73—Banks and Banking Committee.)  
By Request of the Banking Code Commission

### REGULATING BUILDING AND LOAN ASSOCIATIONS

An Act to provide for the government and regulation of building and loan associations in the State of North Dakota; to provide for the organization and operation of such associations, and repealing Sections 5121, 5122, 5123, 5124, 5125, 5126, 5127, 5128, 5129, 5130, 5131, 5132, 5133, 5134, 5135, 5136, 5137, 5138, 5139, 5140, 5141, 5142, 5143, of the Compiled Laws of the State of North Dakota for the year 1913, and Chapter 148 of the Session Laws of the State of North Dakota for the year 1923, together with all acts amendatory thereof, and all other acts or parts of acts repugnant to and inconsistent herewith.

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

§ 1. PURPOSE—DEFINITION.] A corporation, mutually operated, for the purpose of encouraging home building and thrift among its shareholders and loaning substantially all of its funds to them on real estate mortgage security, shall be known in this act as a building and loan association, and shall be under the supervision of the banking board, whose duty it shall be to enforce all laws with respect thereto. Such associations shall be organized under and governed by the provisions of this act. All building and loan associations organized under the laws of this state shall be known as domestic associations. All corporations, societies, organizations, or associations incorporated under the laws of another state, territory, country or nation for the purpose specified herein, or carrying on a business of a character similar to that authorized by this act shall be known as a foreign corporation.

§ 2. ARTICLES OF INCORPORATION—CONTENTS.] Whenever any number of persons, not less than nine (9) shall desire to incorporate a building and loan association, having for its object the conduct and operation of such an association as defined in this act, they shall prepare and file articles of incorporation to that effect in the manner in this act specified; provided that, except as otherwise provided herein, the provisions of Articles one to twelve, inclusive,

of Chapter twelve of the Civil Code, Compiled Laws of North Dakota for the year 1913, and amendments thereto, shall apply to such association; and such articles of incorporation shall include therein the following:

(1) The name of the association. The name shall not be the same as, nor too closely resemble, that in use by any existing corporation established under the laws of this state. The words "Building and Loan Association" shall form a part of the name, and no corporation not organized under this act shall be entitled to use a name embodying said combination of words; provided, that any association now existing may continue and renew its charter under its present name.

(2) The principal office, or place of business of the association, which shall be within this state.

(3) The territory in which such association proposes to operate.

(4) The amount of its authorized capital shares and the number of shares into which the same shall be divided; such capital shall be divided into shares having a par value of either fifty dollars, one hundred dollars or two hundred dollars.

(5) A provision that such association is organized under this act for the purpose herein expressed.

(6) The names and residence of the persons who subscribed and acknowledged the said declaration, a majority of whom shall be citizens of this state, and shall thereafter be called incorporators.

(7) The names of the incorporators; their respective occupations and residence addresses, and a statement of the number of shares subscribed by each, and the amount of cash payment made upon such shares by each.

(8) The term of corporate existence, which shall not exceed twenty years but which may be extended as provided in this act.

(9) The number of the directors of the association.

§ 3. CHARTERS ISSUED WHEN.] The amount of capital designated in the articles of incorporation shall be deemed to refer to the par value of the authorized capital shares and the organization may be completed and business commenced when not less than twenty-five hundred dollars (\$2,500.00) has been paid in, in cash, and such amount must thereafter be maintained; and, provided further, that whenever such articles of incorporation are in due form and regularly executed and the by-laws have been duly approved as required in this act, the banking board shall thereupon ascertain, from the best sources of information at its command, the responsibility, character and general fitness of the incorporators, and that there is a reasonable need for the existence of such an association, and that the public convenience and advantage will be promoted thereby. If the banking

board shall not be satisfied with the result of its investigations of the matters above specified, it shall, within sixty days (60) after said articles of incorporation and by-laws have been presented to it, endorse upon each copy of the articles of incorporation the word "refused," with the date of such endorsement, together with the reason for such refusal, and shall forthwith return one copy of such articles of incorporation to the proposed incorporators from whom the same was received, and such refusal shall be conclusive unless the incorporators within thirty days of the issuance of such notice of refusal shall apply to the district court of Burleigh County, North Dakota, (which court shall have jurisdiction of such case) for a writ of mandamus to compel the filing of such charter and granting of a permit to do business. Provided, however, that said court shall not determine such action in favor of said incorporators unless it shall appear to the satisfaction of said court that there is such existing need and that the incorporators have the required responsibility, character and general fitness. Appeals shall lie from the decree of the district court in the same manner as appeals in other mandamus cases are allowable and taken in this state. If such board shall be satisfied with the result of its investigations, it shall within sixty days (60) after said articles of incorporation and by-laws have been presented to it, instruct the State Examiner to issue, under his hand and official seal, a certificate reciting in substance the filing in his office of the articles of incorporation and by-laws; that said articles and by-laws conform to all the requirements of this act; that the board has approved the same and that the incorporators are fit and proper persons to conduct the business of a building and loan association as defined in this act and said by-laws, and that there is a reasonable need for the existence of said building and loan association, and that the public convenience and advantage will be promoted thereby. Said certificate shall be made in quadruplicate and attached to each copy of the articles of incorporation, one of which shall be retained by the State Examiner, the other three shall be returned to the incorporators who shall forthwith file one copy thereof in the office of the Secretary of State, one in the office of the register of deeds of the county in which the principal place of business of said association is located and the other shall be retained by the association. Immediately upon the receipt of said certified copy, the Secretary of State shall issue a certificate of incorporation, whereupon the incorporation of said association shall be deemed complete.

§ 4. CERTIFIED COPY OF ARTICLES PRIMA FACIE EVIDENCE.] A certified copy of any articles of incorporation filed in pursuance of this act, must be received in all courts and other places as prima facie evidence of the facts therein stated.

§ 5. EVIDENCE OF CORPORATE EXISTENCE OR CAPACITY.] The certificate issued by the Secretary of State in pursuance of this act, or a certificate issued by the State Examiner setting forth that any

association, domestic or foreign, has fully complied with the provisions of this act and is lawfully authorized to transact business in this state, shall be admitted in evidence in all courts in this state, and shall be prima facie evidence of the corporate character and capacity of such association and of its right to transact business in this state, excepting in actions prosecuted by the state in the nature of quo warranto.

§ 6. BY-LAWS.] Contemporaneously with or immediately following the execution of said articles of incorporation provided in this act, the incorporators, acting in the capacity of directors shall adopt appropriate by-laws to govern and prescribe the methods by which, and the officers by whom, the business of the association shall be conducted. The by-laws shall be in conformity with the provisions of this act, and at all times, during the regular hours of business, shall be open to the inspection of the members at its principal place of business. The by-laws, among other things, shall especially provide for the character and method of conducting the business of the association, with rules governing the addition of shareholders; the sale of its shares; the amount of membership fees; provide for the annual meeting of the shareholders; for the annual election and qualification of directors and for the term or period during which the directors shall serve, provided, that the said term or period for directors shall not be less than one year or more than three years, and that the directors shall be so elected that as nearly as possible the term of an equal number shall expire each year; for the appointment of officers; for the adoption, ratification and amendment of the by-laws which adoption, ratification and amendment may be either by the shareholders or board of directors; for the method of voting at such annual meeting and for the periodical investigation of the business and condition of such association. Provided however, that no new association shall commence the transaction of business as such until the by-laws are first approved by the State Banking Board. Provided further, that every association now organized and existing under the laws of this state, shall within three months after this act takes effect, submit its by-laws to the State Banking Board for approval, and, in the event of the disapproval thereof, shall have three months from the date of receipt of notice of such disapproval within which to modify or amend the same as required by said banking board to conform to the provisions of this act. Thereafter, any changes or amendments from time to time in such by-laws shall be submitted to the State Banking Board by registered mail, for approval, and should the said board fail within sixty days after receipt thereof to advise such association of its disapproval, such changes or amendments shall thereupon be deemed approved and shall go into immediate force and effect. In the event of the disapproval of such changes or amendments within the time hereinbefore provided, then such changes or amendments shall not become

effective until modified or amended in manner and form as required by said board to conform to the provisions of this act.

§ 7. POWERS AND DUTIES OF BUILDING AND LOAN ASSOCIATIONS.] Every building and loan association is a creature of the law having certain powers and duties of a natural person, and as such has power:

- (1) To sue and be sued in any court.
- (2) To make and use a common seal and alter same at pleasure.
- (3) To appoint such officers or agents as the business of the association may require, and to allow them suitable compensation.
- (4) To enter into any obligation or contracts essential to the transaction of its ordinary affairs, or for the purposes of the association.

(5) Such association shall have the power to issue shares to members in any one or more of the following forms, viz: "installment shares," "fully paid shares," "prepaid shares," "optional payment shares" and such other classes of shares as may be approved by the State Banking Board. Such shares shall be paid in by the subscriber in the manner provided by the by-laws, and all such payments shall be called dues. Certificates shall be issued to each shareholder upon the first payment of dues by him.

(a) Installment Shares. Installment shares shall be shares upon which the shareholder shall be required to pay such dues and amounts, and at such times, as the by-laws may provide, and such payments shall continue on each share, until with the dividends allotted thereon, it reaches its matured value or is withdrawn or cancelled. On all such issues the dividends shall be apportioned or credited equally to each share in the same class.

(b) Fully Paid Shares. Fully paid shares shall be shares upon which the full par value of the shares shall be paid at the time of the issuance thereof, and upon which the holder shall be entitled to either a full participation in the net profits or to an agreed rate of dividends not exceeding six per centum per annum paid semi-annually, to be specified in the body of the certificate issued. Provided however, that in the event of the withdrawal by the holder of such certificate within one year after the issuance thereof, the same shall be subject to a withdrawal fee equal to one-fourth of the dividends earned thereon from the date of such certificate.

(c) Prepaid Shares. Prepaid shares shall be shares upon which an amount less than the par value of the shares shall be paid and shall mature and be payable when the amount so paid, together with the dividends allotted thereon, shall equal the par value of the shares.

(d) Optional Payment Shares. Optional payment shares shall be shares upon which amounts may be deposited or withdrawn at

any time, subject to the provisions of this act. The rate of dividend on such shares shall in no event exceed five per centum per annum. No dividend on such shares shall be paid or credited thereon more often than once every three months.

(6) To assess and collect from members dues on shares and principal and interest on loans at the times and in the amount as provided for in the by-laws. Interest in no event to exceed twelve per centum per annum on the amount of the loan. Interest not exceeding one per centum per month may also be charged on delinquent payments or installments from time such delinquent payments or installments are due. No association shall charge or collect from any shareholder, member or borrower, any fines, premiums or penalties of any kind whatsoever except as herein provided for delinquent payments or installments. Any officer, agent or employee of an association collecting or attempting to collect any penalty, fine or premium of any kind whatsoever, or any interest at a rate higher than provided by this act, except as herein provided for delinquent payments or installments, shall be guilty of a misdemeanor.

(7) To assess and collect from members and others such dues and principal and interest on loans made or advancements, as may be provided for in the by-laws. Such dues, interest, or advancements shall not be deemed usury, although in excess of the legal rate of interest. No association, its officers, agent, or employees, shall charge or collect a membership fee exceeding two per centum of the par value of each share.

(8) To permit members to withdraw all or part of their share credits at such time and upon such terms as the by-laws may provide; provided also that shareholders who have filed notice of withdrawal still remain shareholders and are in no way to be deemed creditors of the association. Applications for withdrawals are to be registered on the books of the association in the order received and after outstanding contracts have been provided for, at least one-half of the collections made by the association must be used for the payment of the withdrawals in the order received; provided, however, that if applications for withdrawals are six months old, all collections, less operating expenses, and amounts due on matured shares, must be used for payment.

(9) To cancel shares upon which all credits have been withdrawn, or upon which loans have been cancelled, or shares upon which no payments have been made for a period of six months, by returning to the shareholders all credits, if any.

(10) To retire all classes of free shares enforcing the withdrawal of same; provided, however, that the by-laws of such association shall clearly state the manner in which such withdrawals shall be enforced; and, provided also, that the holders thereof shall be paid full withdrawal value of the shares. Shares which have not been



transferred to the association as security for repayment of a loan shall be called "free shares"; shares that have been so transferred shall be called "pledged shares."

(11) To acquire, hold, encumber and convey such real estate and personal property as may be necessary for the transaction of its business, or to enforce or protect its securities. Provided, however, not over two per cent of the assets of any association shall be invested in its home office lot and building, and furniture and fixtures; provided further, however, that ten per cent of the assets of any association may be invested in its home office, lot, building and furniture and fixtures, when authorized by a vote of two-thirds of its directors, and the written approval of the State Examiner.

(12) To borrow money, when necessary, and to issue its promissory note therefor; provided, that the assets and securities of an association shall not be pledged or hypothecated to secure its borrowed money in an amount exceeding ten per cent of its assets without the consent of the State Examiner.

(13) To make loans to members on the security of the shares of the association, and also on their notes secured by first mortgages constituting first liens on improved real estate used wholly or in part for dwelling purposes, except loans may be made on business property with the approval of the State Examiner.

(14) To cancel such loans and release the securities on such terms as the board of directors may provide.

(15) To invest the idle funds in:

(a) Bonds and other obligations of the United States.

(b) In bonds or evidences of debt of this state or any political subdivision thereof, or in bonds or evidences of debt of any other state in the union, or of any county, city or school district thereof, having a population according to the last state or United States government census, of ten thousand or more inhabitants.

(c) In the mortgage bonds of any railroad corporation, incorporated under the laws of any state of the United States, provided that during each of the ten fiscal years of such railroad corporation's existence next preceding the date of such investment:

1. Such railroad corporation shall have paid the matured principal and interest of all its mortgage indebtedness.

2. Such railroad shall have paid in dividends in cash to its stockholders, an amount of at least four per cent per annum upon all of its outstanding stock of every class.

(d) Not to exceed in the aggregate twenty per cent of its assets in the following securities:

1. In commercial paper due in not more than one year from the date of the loan.

2. In first lien public utility, industrial or equipment trust bonds.

3. In first mortgage real estate bonds where the total issue thereof does not exceed fifty per cent of the value of the property.

(16) To loan its idle funds to other domestic building and loan associations when authorized by a vote of two-thirds of its directors and written approval of State Examiner.

(17) To make such annual, semi-annual or quarterly distribution of all the earnings as the directors may provide after payment of expenses and setting aside a sum for the reserve fund as herein provided.

(18) To amend its articles of incorporation by a majority vote of its directors.

(19) To dissolve the corporation in accordance with the provisions of this act.

(20) To provide by by-laws, adopted or amended, by its board of directors, for the proper exercise of the powers herein granted, and the conduct and management of its affairs.

(21) All such other powers as are necessary and proper to enable such corporation to carry out the purposes of its organization.

(22) To renew its corporate existence for a term of years not exceeding the period limited by law, at any regular directors' meeting of such association, by a two-thirds vote of the directors of said association, and the certificate of the chairman and secretary of such directors' meeting, evidencing such vote and renewal, and filed with the Secretary of State, shall be effectual to accomplish such renewal, and shall be recorded by the Secretary of State in the book of corporations, and thereupon the terms of the existence of such association shall be renewed for the term provided by said vote and certificate.

§ 8. CONFORMITY REQUIRED.] No domestic or foreign association now engaged in the business of a building and loan association, or a business of like character, shall be permitted to conduct such business in this state unless it comply in every respect with the provisions of this act.

§ 9. DEPOSIT ACCOUNTS—RESTRICTIONS AS TO.] No building and loan association shall carry or have upon its books at any time any demand, commercial or checking account, or any credit to be withdrawn upon the presentation of any negotiable check or draft and no association shall receive any savings account or any sum of money which does not represent a payment made upon the shares of the association.

§ 10. SHAREHOLDERS.] The owners of shares in a building and loan association shall be known as shareholders.

§ 11. VOTING SHARES.] All members of such association shall be entitled to vote at such meetings in person or by proxy. At any election, each member shall have one vote for each share owned and held by him.

§ 12. TRANSFER OF SHARES — EFFECT — FEE.] No transfer of shares shall be binding upon the association until same shall have been made upon its books; the transferee thereof shall take same subject to and shall be responsible for all the obligations, liabilities and conditions attaching thereto or secured by such shares. No transfer fee in excess of twenty-five cents per share shall be charged. Shares shall be non-negotiable and payments on shares made by the association to the holders of record shall be a full discharge thereof.

§ 13. JOINT OWNERSHIP.] Any building and loan association may issue shares in the joint names of two or more persons with the power of withdrawal in either, or in either or the survivor, and the withdrawal value of such shares may be paid to either of such persons whether the other be living or not, and the receipt or acquittance of the person so paid shall be a valid and sufficient release and discharge to such association for the payment so made.

§ 14. TRUSTS—PAYMENT.] Whenever any shares shall be purchased in any building and loan association by any person in trust for another, and no other further notice of the existence and terms of a legal and valid trust shall have been given in writing to the association, in the event of the death of the trustee, the same or any part thereof, together with the interest or dividends thereon, may be paid to the person for whom said shares were purchased.

§ 15. SHARES HELD BY MINORS.] Whenever any shares shall be purchased by any minor, the same shall be held for the exclusive right and benefit of such minor, and may be paid, with any interest due thereon, to the person in whose name the shares shall have been purchased, and the receipt of such minor shall be sufficient release or discharge for such shares to the association.

§ 16. DIRECTORS—DUTIES—OBLIGATIONS.] The conduct and management of the affairs and business of such association shall be vested in a board of directors which shall consist of an uneven number, not less than five (5) nor more than eleven (11) members. The incorporators of the association shall possess the qualifications of directors and shall serve as directors until the first meeting of the shareholders, and until their successors are elected and qualified. The directors thereafter shall be elected by the shareholders of the association in accordance with the provisions of this act and the by-laws of the association. The directors shall hold their office for not less than one year nor more than three years and if a longer period than one year, it shall be so arranged that the terms of an equal number thereof, as nearly as possible, shall expire each year. Such directors when appointed or elected shall file with the State

Examiner their oath of office, as provided in the election and appointment of bank directors. Meetings of the board of directors must be held at least once each month. No person shall be eligible to election as a director or an officer unless he is the owner in good faith and in his own right on the books of the association of shares upon which at least two hundred dollars (\$200.00) has been paid, and any person elected to be a director, who, after such election, shall hypothecate, pledge or cease to be the owner in his own right of the necessary qualifying shares shall thereupon vacate his office. Provided, however, that the board of directors, when so authorized by the by-laws may elect the officers or any of them and fill vacancies until the next annual meeting of the shareholders.

§ 17. REMOVAL FROM OFFICE.] No director shall be removed from office except as herein provided, or by a vote of the shareholders holding two-thirds of the outstanding capital shares, at a general meeting held after previous notice given in the manner provided in this act. Meetings of the shareholders for this purpose may be called by a majority vote of the directors, or by shareholders holding not less than twenty-five per cent of the outstanding capital shares.

§ 18. REMOVAL OF DIRECTORS, OFFICERS OR EMPLOYEES.] Any director, officer or employee of any association found by the State Examiner to be incompetent or dishonest may be removed by him from such office or position upon the failure of the board of directors to act.

§ 19. MEETING OF SHAREHOLDERS AND DIRECTORS.] The meeting of the shareholders of a domestic building and loan association must be held at its office or principal place of business in this state.

In its by-laws such association shall provide for at least one regular meeting of shareholders annually in January. Notice of any meeting, whether regular or special, shall be given by the secretary in accordance with this act. The board of directors shall have the right to call a special meeting at any time. The board of directors must also call a special meeting whenever petitioned so to do by shareholders owning at least twenty-five per cent of the issued shares, such meeting shall be called within twenty days after the filing of such petition.

§ 20. NOTICE OF MEETINGS.] At least thirty days (30) prior to any annual meeting or special meeting of any such association, a notice stating the time and place of such meeting shall be published at least once each week for two successive weeks in some newspaper of general circulation, printed and published in the town or city where the association has its principal place of business, if there be one printed or published in said town or city, and, if none, then in the nearest town or city where there may be such newspaper printed or published.

In notice of special meetings there shall be included a statement of any matter or matters to be considered at such special meeting, provided, however, that nothing herein shall be construed as preventing such association from giving to its shareholders personal notice or notice by registered mail of any regular or special meeting in lieu of such publication.

§ 21. EMPLOYMENT OF AGENTS. LICENSES AND REVOCATION THEREOF.] No person receiving compensation from a building and loan association shall act as solicitor or agent for the sale of the shares of stock, shares or membership, certificates or other securities or forms of investment issued by such association, excepting shares issued in connection with and not exceeding the amount of any loan as made, until he has first procured from the State Examiner, a license therefor; provided, that no license shall be required by any officer or director. To obtain such license there must be filed with the State Examiner a duplicate of the authorization or appointment issued to such person, together with a request from a licensed association, that a license be issued to him to act as an agent or solicitor for it, and accompanied by a fee of two dollars. All such licenses shall expire by limitation on the thirty-first day of December succeeding their issue, but may be renewed from time to time, for an additional period of one year upon a request therefor from the association originally applying and upon payment of a renewal fee of two dollars. Any such license may be revoked at any time on the application of the association, for whom it was issued, or may be revoked by the State Examiner for cause.

The State Examiner shall keep an alphabetical list of the names of persons to whom such licenses are issued with the date of issue and renewal, and the name of the association for whom such licensee is authorized to act. All such licenses shall be issued under rules and regulations to be prescribed by the Banking Board.

§ 22. PROMOTIONAL CONTRACTS.] The State Banking Board shall refuse authority to commence business to any building and loan association if commissions, contributions or fees have been paid or have been contracted to be paid directly or indirectly by the building and loan association or by anyone to any person, association or corporation for securing subscriptions for or selling stock in such building and loan association.

§ 23. BONDS OF DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES.] Every officer, director, employee, or agent handling or having the custody or charge of funds, securities, books or records belonging to such association, shall, before entering upon the discharge of his duties, give a good and sufficient bond in such sum as may be fixed by the board of directors of any such association, conditioned for the faithful performance of his duties and such pecuniary loss as the association may sustain for money or other

valuable securities embezzled, wrongfully abstracted or wilfully misapplied by any such officer, director, employee or agent in the course of his employment as such or in the course of his employment in any other position in such association, whether he be assigned, appointed, elected, reelected or temporarily assigned to such position. Such bond shall be made by a surety corporation authorized to do business as such in this state. The amount of such bond and the solvency of such corporation shall be subject to the approval of the State Examiner and such bond shall be made upon forms approved by the State Examiner; provided, that in lieu of individual bonds, a blanket bond covering all active officers and employees of such association may be executed, subject to the same provisions as to approval of surety, amount and form specified herein. The board of directors may require any other bond or bonds in addition to that herein required, at their discretion. Officers of associations who do not handle the associations' funds or securities shall not be required to give bond. Bonds shall be executed in duplicate-original, one of which shall be filed with the State Examiner and the other shall be retained by an officer or custodian of the association.

All such directors and officers of such association, on being reelected to office, and all such agents and employees upon their reappointment shall renew their bonds.

§ 24. PURCHASE OF OBLIGATIONS AND ASSETS BY CERTAIN PERSONS PROHIBITED. PENALTY.]

(a) No director, officer, agent or other employee of any building and loan association shall, directly or indirectly for his own personal benefit, purchase, or be interested in the purchase of any obligation of said association for a less sum than shall appear upon the books of such association to be the value thereof. Every person violating the provisions of this section shall, for each offense, forfeit to the state three times the face value of any such obligation so purchased.

(b) No officer, director, agent or other employee of any association shall, directly or indirectly, for his own personal benefit, purchase, or be interested in the purchase of any of the assets of any building and loan association for a less sum than the actual value thereof as may be determined by the board of directors. Every person violating any provision of this section, shall, for each offense forfeit to the state twice the actual value of any such assets so purchased.

§ 25. LIMITATION OF LOANS.] It shall be unlawful for any building and loan association, the assets of which do not exceed fifty thousand dollars, to make loans exceeding in the aggregate five thousand dollars upon any one piece of property; if its assets exceed fifty thousand dollars but do not exceed one hundred thousand dollars, it shall be unlawful for it to make loans exceeding in the aggre-

gate seven thousand five hundred dollars upon any one piece of property; if its assets exceed one hundred thousand dollars, but do not exceed two hundred thousand dollars it shall be unlawful to make loans exceeding ten thousand dollars upon any one piece of property; if its assets exceed two hundred thousand dollars but do not exceed five hundred thousand dollars it shall be unlawful for it to make loans exceeding in the aggregate fifteen thousand dollars upon any one piece of property; if its assets exceed five hundred thousand dollars, it shall be unlawful for it to loan to exceed three per centum of its assets upon any one piece of property; provided, however, that any loan exceeding twenty thousand dollars, shall, before being accepted and passed by any association have the approval by an affirmative vote of two-thirds of the members of the board of directors of such association, which vote shall be recorded. Provided, further, that no loan upon any one piece of property shall exceed fifty thousand dollars.

§ 26. LOANS TO SHAREHOLDERS.] Loans may be made to shareholders on notes secured by mortgages which shall be a first lien on improved real property not to exceed seventy-five per cent of the cash value thereof, payable in shares of the association or by periodical installments, and, where any association holds a mortgage on real property which is a first and prior lien, such association may increase its loan thereon and secure the same, by a second or subsequent mortgage payable in installments. A prior lien or encumbrance upon property upon which such association holds a subsequent mortgage or encumbrance may be sold, transferred or assigned, but the aggregate amount of such outstanding and unsatisfied prior liens or encumbrances so sold, transferred or assigned, shall not exceed at any one time ten per cent (10%) of its assets, and in no event shall exceed the amount of its reserve fund. Provided further, that the total indebtedness to the association, less the amount of dues paid on the shares pledged for such loan, shall not exceed seventy-five per cent of the cash value of the real property. It shall be lawful for any such building and loan association to permit members, subject to the consent of the board of directors, when loans are granted, to secure the repayment thereof, if so desired, by giving the association a straight note and mortgage on real property for a fixed period, for an amount not to exceed one-half of the value of the property; conditioned, however, that no association shall be permitted to make straight loans on real property in excess of ten per cent of the assets of the association; provided that it shall not be lawful to collect fines or penalties on such straight note and mortgage. Loans may be made upon the mutual plan or upon the definite contract plan. Loans made upon the mutual plan shall be accompanied by a pledge of shares having a matured or par value equal to the face of the loan. Definite contract loans shall be repayable in a definite number of equal periodical installments, to be named in the note or obligation, each in an amount sufficient so that the aggregate of

all will repay the principal of the loan, together with the interest on the unpaid periodical balances within the time and at the rate agreed upon. Loans may be made to shareholders upon the pledge of collateral security of the shares of such association, not to exceed ninety per cent of the withdrawal value of such shares. Loans made on the mutual plan shall become due and payable upon the date of maturity of the stock of borrowing member pledged as collateral security to such loan, but the payments made by the borrowing shareholder upon the shares so pledged shall not be considered as payments upon the principal of the loan.

Any association may advance such sums from time to time for the payment of insurance premiums, necessary repairs, and taxes due and owing on real estate upon which it has loaned money, and to carry such advances upon its books as an asset of the association, and such association shall have a good and valid lien against such real estate and pledged shares to secure the payment of funds so advanced.

No building and loan association shall make a mortgage loan to an officer or director until such loan be first unanimously approved by the board of directors, such approval to be recorded by aye and nay vote in the minutes of the meeting of the board.

§ 27. REPAYMENT OF LOANS.] Any loan made by any association to a shareholder may be repaid at any time, provided the shareholder shall pay the principal due thereon, less the withdrawal value of the shares transferred as security therefor, the interest accrued at the date of such repayment, and all sums advanced by the association for taxes, assessments or insurance premiums, or necessary repairs, with interest thereon, and in addition thereto:

1. Interest on the principal repaid for a period of three months after the date of repayment; or any such borrowing member may pay upon any such loan a sum equal to the matured value of one or more of the installment shares transferred and pledged as security therefor, upon the same proportionate terms as are provided in this section for the payment in full. Whenever any mortgage is foreclosed, the withdrawal value of the shares transferred and pledged to any such association for the payment of the loan shall be applied to the extinguishment of the indebtedness of the shareholder as hereinbefore determined, and his right under such shares shall terminate.

2. Interest upon such principal for the whole year when so provided in the by-laws of the association, if the repayment be made at any time within one year from the date of the mortgage or other evidence of debt.

3. If any such association is in the process of voluntary liquidation, the shares of a borrowing shareholder shall be entitled to full participation in the current earnings of such association, and their value as thus determined shall be applied upon the indebtedness of such member.



4. If any such association is in the process of involuntary liquidation, the minimum value of the shares owned by the borrowing shareholder, after allowing for all possible losses and the expenses of liquidation, may be allowed in the reduction of his indebtedness, and he shall be entitled to receive his proportionate share of any further sums that may be thereafter realized from the assets of such association.

5. Nothing in this section shall be construed to prevent the reduction of any such association's liability to its members, in accordance with the provisions of the section relating to impaired capital.

§ 28. CONVEYING PROPERTY MORTGAGED TO ASSOCIATION.] The conveyance or transfer of property mortgaged to a building and loan association shall act as a transfer also of the shares of such association securing said loan. If a borrowing member of such association shall convey the title to any property upon which such borrowing member has given to the association a mortgage lien, without the purchaser assuming the payment of the indebtedness to the association thereby accrued, the board of directors may in their discretion declare the entire indebtedness due and proceed to the collection of the debt in the manner provided by the by-laws of such association and by this act.

§ 29. FUND FOR CONTINGENT LOSSES.] The amount to be set aside to the fund for contingent losses shall be determined by the board of directors, but at least five per cent (5%) of the net earnings shall be set aside each year for such fund until it reaches at least five per cent (5%) of the assets and such fund shall be known and designated as the "Reserve Fund." All losses shall be paid out of such fund until the same is exhausted, and whenever the amount in said fund falls below five per cent (5%) of the assets as aforesaid, it shall be replenished by annual appropriations of at least five per cent (5%) of the earnings, as hereinbefore provided, until it again reaches said amount.

§ 30. PAYMENT OF EXPENSES.] All expenses of any association shall be paid out of the earnings only in such manner as may be provided in its by-laws.

§ 31. DISTRIBUTION OF PROFITS.] Interest unpaid, although due or accrued, on debts owing to any building and loan association, shall not be included in distribution of its profits.

§ 32. UNDIVIDED PROFITS—INVESTMENT OF RESERVE AND UNDIVIDED PROFITS.] Any residue of earnings, after providing for expenses, reserve fund and dividends, may be held as undivided profits to be used as other earnings; provided, that such undivided profit fund shall at no time exceed three per cent of the assets.

The board of directors are authorized and empowered to invest all reserve funds and undivided profit funds in the same manner and in the same class of securities as provided in this act for all other funds of the associations.

§ 33. PENALTY FOR DECLARING GREATER DIVIDENDS THAN EARNED.] Any member or members of the board of directors of a building and loan association who knowingly votes to declare, or who, being secretary or manager thereof, wilfully declares a greater dividend than has actually been earned, or has been previously accumulated as undivided profits by such association, shall be personally liable to the corporation therefor, jointly and severally.

§ 34. EXAMINATIONS. FEES FOR.] The State Examiner shall examine all domestic building and loan associations doing business in this state as often as he may deem necessary, but at least once a year. Also, whenever persons holding ten per cent of the subscribed shares of any association file a written application with the State Examiner, requesting him to make examination of any such association, he shall make such examination forthwith. Upon the completion of any examination of any association made by the State Examiner or under his direction, the association so examined shall pay to the Examiner a fee to be determined as follows, viz :

For the first one hundred thousand dollars of assets, a fee of twenty dollars, and for each additional one hundred thousand dollars of assets, or major portion thereof, an additional fee of ten dollars; provided, however, that the minimum fee for any such examination shall be thirty-five dollars. The Examiner shall report such payments to the Banking Board, and if any such association shall be delinquent more than twenty days in making such payment the board may make an order suspending its functions until such payment of the amount due together with a penalty of five dollars a day additional for the delay. All fees collected by the Examiner shall be by him paid to the State Treasurer.

§ 35. POWERS OF STATE EXAMINER.] The State Examiner shall have power to prescribe for and supervise uniform system of reports for all associations; shall have access to and may compel the production of all books, papers, securities and moneys of any association under examination. He shall have power to administer oaths to and examine the officers, employees, agents and shareholders of such association and its affairs.

§ 36. STATE EXAMINER'S REPORT TO GOVERNOR.] The State Examiner shall keep and preserve in permanent form a full record of his proceedings, including a concise statement of each association examined, and he shall annually make a report to the Governor of the general conduct and condition of the building and loan associations doing business in this state, with such suggestions as he may deem expedient. Such report shall also include the information contained in the statement required of the association, and arranged in tabulated form. He shall also report the whole amount of the income of his office, paid by such associations, the source whence derived, and the expense in detail during the year ending the thirty-first day of December.

§ 37. REPORTS CONFIDENTIAL.] Whoever, being the State Examiner, his deputy, assistant or clerk, fails to keep secret the facts and information obtained in the course of an examination, or by reason of his official position, except when the public duty of such officer requires him to report upon or take official action regarding the affairs of an association so examined, or wilfully makes a false report as to the condition of such association shall be guilty of a felony and shall be removed from office. Nothing in this section shall prevent the proper exchange of information relating to building and loan associations and the business thereof, with the representatives of building and loan departments of other states, but in no case shall the private business or affairs of any individual association or company be disclosed.

§ 38. ANNUAL STATEMENT—FORM—WHERE FILED—PUBLICATIONS.] Every building and loan association authorized to do business in this state shall, annually on the thirty-first day of December, or within thirty days thereafter file with the State Examiner a full detailed report, in writing, of the affairs and business of the association for the fiscal year ending on December thirty-first, showing its financial condition at the end of said year. The statement shall be in such form and contain such information as may be prescribed by the State Examiner. It shall be sworn to by the secretary of such association and its correctness attested by at least three directors or an auditing committee appointed by the board of directors. The original shall be filed with the State Examiner within thirty days after the close of the fiscal year, and in such form as the State Examiner shall require shall be published once in a newspaper published in the town in which the association is located, or if no newspaper is published in the town in which the association is located, then in one published nearest thereto in the same county, and such proof of publication shall be furnished at such times and in such manner as may be required by the State Examiner.

§ 39. REPORT TO STATE EXAMINER. PUBLICATION.] Every building and loan association shall make to the State Examiner a report of condition whenever requested to do so by the State Examiner, according to the form which may be prescribed by him, verified by the oath or affirmation of the president, vice-president or secretary of such association, and attested by the signature of at least two of the directors. Each such report shall exhibit in detail and under appropriate heads, the resources and liabilities of the association at the close of business on any past day by him specified; and shall be transmitted to the State Examiner within fifteen days after the receipt of a request or requisition therefor from him.

§ 40. OBTAINING PROPERTY BY FRAUD, FALSE REPORTS, INSPECTION OF BOOKS.] A director, officer, agent, or employee of any building and loan association who:

(1) Wilfully receives or possesses himself of any of its property, otherwise than in payment for a just demand, and, with intent to defraud, omits to make or cause or direct to be made a full and true entry thereof in its books and accounts; or

(2) Concurs in omitting to make any material entry thereof; or

(3) Wilfully makes or concurs in making or publishing any written report, exhibition or statement of its affairs or pecuniary condition, containing any material statement which is false; or

(4) Having the custody or control of its books, wilfully refuses or neglects to make any proper entry in the books of such association as required by law, or to exhibit, or allow the same to be inspected and extracts to be taken therefrom by the State Examiner, his chief deputy, or any of his examiners, shall be guilty of a felony.

§ 41. COMMUNICATIONS FROM STATE EXAMINER.] Each official communication directed by the State Examiner or one of his examiners or deputies, to a building and loan association or an officer thereof relating to an investigation or examination conducted by the State Examiner or containing suggestions or recommendations as to the conduct of the business of the association shall be submitted by the officer receiving it to the board of directors at the next meeting of the board and noted in the minutes of the meetings of such board.

§ 42. REDUCTION OF LIABILITY TO MEMBERS.] Whenever the losses of any building and loan association, resulting from depreciation in value of its securities or otherwise, exceed its reserve, undivided profits and current earnings, so that the estimated value of its assets is less than the total amount due its members, the State Examiner upon petition of such building and loan association, may order a reduction of its liability to members in such manner as to distribute the loss equitably among such members. If thereafter, such association shall realize from such assets a greater amount than was fixed in the order of reduction, such excess shall be divided among members whose credits were so reduced, but to the extent of such reduction only.

§ 43. CONSOLIDATION.] Any building and loan association may, with the consent and approval of the State Examiner consolidate with or be taken over by any other association upon such terms as may be authorized by the respective boards of directors after being authorized to do so by a majority vote of their respective shareholders at any regular or special meeting. This section shall be construed to also include any association taken over by the State Examiner whether in process of liquidation or otherwise.

§ 44. VOLUNTARY LIQUIDATION AND SETTLEMENT.] By and with the consent of the State Examiner any association organized

under the laws of and doing business in this state, may, if the shareholders deem it advisable, go into liquidation, and for the purpose of so doing may be (by) a two-thirds affirmative vote at any regular or special meeting of the shareholders, called for that purpose, adopt a resolution declaring that such association intends to go into liquidation and discontinue business as a building and loan association. A copy of such resolution, duly certified by the president and secretary of such association, under the seal thereof, shall be transmitted to the State Examiner within ten days after the adoption thereof. Thereupon the State Examiner shall issue his certificate reciting that such association is in liquidation. After the filing of such notice, it shall not be lawful for such association to issue shares, or to loan or advance its money to members or to any person or persons, but all of the income and receipts of such association, in excess of the actual expense of managing the same, shall be applied to pay off, first, the indebtedness, and then the shares in such association upon which no loans have been made shall be paid pro rata. The board of directors of such association in liquidation may adopt rules and make such orders as shall be just and equitable for the sale and disposition of all property held by such association, and for the division of the assets of such association. Such association in liquidation shall be subject to examination and under the supervision of the State Examiner.

§ 45. ILLEGAL, UNAUTHORIZED, UNSAFE OR FRAUDULENT PRACTICES. INSOLVENCY.] Whenever the State Examiner, as the result of any examination, of (or) from any report made to him or to the shareholders, shall find that any association, licensed by him, is violating the provisions of its charter or of the laws of this state provided for its government, or is conducting its business in an unsafe or unauthorized manner, he may, by an order addressed to the association, so offending, direct a discontinuance of such violations or unsafe practices and a conformity with all requirements of law; and if such association shall refuse or neglect to comply with such order within the time specified therein, or if it shall appear to the examiner that such association is in unsafe condition, or is conducting its business in an unsafe manner, such as to render its further proceeding hazardous to the public, or to those having funds in its custody; or if he shall find that its assets are impaired to such an extent that after providing for all liabilities other than to shareholders, they do not exceed in volume the dues or principal payments paid in by shareholders and accredited to or on account of all classes of shares issued and outstanding, he shall in order to prevent waste and diversion of assets, assume and take charge of the affairs and business of such association, and possession of all books, records, and assets of every description of such association, and hold and retain the possession of same pending the further proceedings herein specified. Should the board of directors, secretary or person in charge of such association refuse to permit the State Examiner to

take possession as aforesaid, the State Examiner shall communicate such fact to the Attorney General whereupon it shall become the duty of the Attorney General at once to institute such proceedings as may be necessary to place the State Examiner in immediate possession of the property of such association. Upon taking possession of the effects of the association as aforesaid, the State Examiner shall prepare a full and true statement of the affairs and condition of such association, including an itemized statement of its assets and liabilities and shall receive and collect all debts, dues and claims belonging to it, and pay the immediate and reasonable expenses of his trust. When the condition of such association has been fully ascertained, and it shall appear that the affairs of said association are in fact in an unsound condition, the State Examiner shall at once notify, in writing, the board of directors of such association of his decision, giving them twenty days in which to restore the affairs of such association to a sound condition. Meanwhile, the State Examiner shall remain in charge of the books, records, and assets of every description of such association, attend, or be represented, at all directors and shareholders meetings held, suggest such steps as he may deem necessary to restore such association to a sound condition; and if same is not done within such twenty days, he may report the facts to the Attorney General, and it shall thereupon become the duty of the Attorney General to institute proceedings in the district court of the county in which such association has its principal place of business, for the appointment of a receiver. Such receiver shall be authorized to collect all moneys due such association, and to do such other acts as are necessary to conserve its assets and business, and he shall, after having furnished a good and sufficient surety bond, proceed to liquidate its affairs. He shall have general power and authority, except as otherwise limited by the terms of this Act, to do any and all acts, to take any and all steps necessary, or, in his discretion desirable, for the protection of the property and assets of such association and the speedy economical liquidation of its assets and affairs and the payment of its creditors, or for the reopening and resumption of business of said association where that is practicable or desirable. He may institute in his name as receiver, or in the name of the association, such suits, actions and other legal proceedings as he deems expedient for such purposes, and by making application to the district court of the county in which such association is located, or to the judge thereof, in chambers, may upon proper and sufficient showing of cause therefor, procure an order to sell, compromise or compound any bad or doubtful debt or claim, and to sell and dispose of any or all the assets, which sale, with the consent of the court, may be made to shareholders, officers, directors, or others interested in such association. On such proceedings the association shall be made a party by notice on order of the court or judge in lieu of summons, but served in like manner, and the hearing of any such application or petition by the receiver

may be had at any time either in term or vacation in court, or in chambers, as the court may order, after said association has had five days notice of such application.

§ 46. APPLICATION TO OTHER PERSONS, CORPORATIONS, ASSOCIATIONS.] The provisions of this Act shall apply to and be enforceable against all corporations, persons, firms, partnerships, associations, trustees or combinations of persons whatsoever, whether foreign or domestic organized for building and loans purposes, and whether citizens of this state or otherwise, that transact, or attempt to transact, a building and loan business, or a business of like kind, or character, or whereby its or their charter, constitution, by-laws or by declaration of trust, or other device, or by a contract or agreement, the members are required to pay regular installments to a common fund or series, from which fund or series loans are made to said members, for the purpose of building homes or buildings, purchasing building sites, paying off liens or debts against real estate. The name association when used in this Act shall be deemed to include any of the above named.

§ 47. LAWS OF OTHER STATES.] When by the laws of any other state, territory or nation any taxes, fines, penalties, licenses, fees, deposits of money or securities or other obligations or prohibitions are imposed on building and loan associations of this state doing business in such other state, territory or nation, or upon their agents therein as long as such laws continue in force the same obligations and prohibitions shall be imposed on the associations of such other state, territory or nation doing, or attempting to do a building and loan business, or a business of like kind or character in this state, and upon their agents herein.

§ 48. FOREIGN ASSOCIATIONS—REQUIREMENTS.] Any association as defined in this Act, organized under the laws of any state, other than North Dakota, or of the United States, or of any foreign government shall, before doing business within this state, file in the office of the Secretary of State and in the office of the State Examiner, a duly authenticated copy of their charter, articles of incorporation, or articles of agreement, copy of its by-laws and other rules and regulations showing the method of conducting its business, and also a statement verified by oath of the president and secretary of such corporation or managing officials if other than a corporation and duly verified, showing:

- (1) The name of such association and the location of its principal office or place of business without this state; and the location of the place of business or principal office within this state;
- (2) The names and residences of the officers, trustees or directors;
- (3) The amount of paid in capital stock or outstanding shares;
- (4) The amount invested in the State of North Dakota;

(5) It shall deposit with the State Treasurer one hundred thousand dollars in cash or bonds of the United States or bonds of any state of the United States, or bonds of any county or municipal corporation in the State of North Dakota or mortgages being first liens on improved and productive real estate located within this state and worth at least twice the amount of the liens, which securities shall be approved in advance by the State Examiner. The State Examiner shall have authority to require such associations to deposit additional securities, and to order a change in any of the securities so deposited, at any time. Such deposit shall be held as security for all claims of residents of this state against such foreign association, and shall be liable for all judgments or decrees thereon; and said securities shall not be released until all its obligations to residents of this state shall have been fully performed and discharged. Such foreign associations may collect and use the interest on any securities so deposited, so long as it fulfills its obligations and complies with the provisions of this Act. It may also exchange them for other securities of equal value, if satisfactory to the State Examiner. Any foreign building and loan association may, in lieu of the deposit of securities, as herein provided, deposit with the State Examiner a surety company bond, satisfactory to him, in the sum of one hundred thousand dollars, which bond shall be conditioned for the payment of any judgment entered against such foreign building and loan association, by any court of competent jurisdiction in this state, in favor of any resident of this state. Such judgment creditor shall have the right to bring suit on such bond in his own name in the county in which such judgment is rendered and any resident of this state, having a claim against such foreign building and loan association may bring suit in his own name against such surety company, by joining such surety company with such foreign building and loan association as parties defendant.

Such association shall also file, at the same time, and in same offices, a certificate, under seal and the signature of its president, vice-president, or other acting head, and its secretary, if there be one, certifying that the said association has consented to all the license laws and other laws of the State of North Dakota relative to foreign associations, has consented to be sued in the courts in this state, upon all causes of action arising against it in this state, that service of process in any action or proceeding brought against it may be made upon the Secretary of State of North Dakota and that such service of process, when so made upon the secretary of state, shall be valid service on the association. The Secretary of State upon receipt of any legal process in any action brought against a foreign association shall immediately mail the same to the home office of such foreign association, and shall within six days certify the fact of such mailing to the court in which such action or proceeding is



pending. The plaintiff shall for each process so served pay the Secretary of State a fee of two dollars, which shall be recovered by the plaintiff as part of the taxable costs if he prevail in the suit.

It shall also file a statement verified under oath by its president and secretary, showing the names, addresses, and the total cash credits of all of its stockholders, shareholders, investors and customers who reside in the state of North Dakota, and a similar statement shall be filed annually thereafter as of December thirty-first, each year, such statement to be filed with the State Examiner within twenty (20) days after December thirty-first of each year.

§ 49. SECURITIES DEPOSITED BY FOREIGN ASSOCIATIONS.] Upon deposit with the State Treasurer by such foreign association of the securities as provided for in this Act the State Treasurer shall issue his receipt in duplicate therefor, delivering the original to the State Examiner and the copy to such depositor. The State Treasurer and his surety shall be responsible for the safekeeping of such securities which shall be released by him only upon the written order of the State Examiner.

§ 50. CERTIFICATE TO FOREIGN ASSOCIATIONS.] Whenever such foreign association has complied with the provisions of this Act and has furnished a full and complete statement of its financial affairs duly sworn to by its president and secretary, and said financial status of such association has been verified by an examination of its assets and its records for the purpose of ascertaining whether the same meet the requirements of this Act, said examination to be made by the State Examiner, or his duly authorized representative, for which examination the said foreign association shall pay in the same manner as herein specified for regular examinations of domestic associations, the State Examiner, if he be satisfied that such association is in sound financial condition, and that it is conducting its business in accordance with the laws of this state, and if he shall regard such association as safe, reliable and entitled to public confidence, shall issue a certificate of authority to such association to do business in this state upon the payment of fees as herein provided. Provided, that the State Examiner, in his discretion, may accept a report of an examination of the affairs of such association made by a supervising officer of its own state under lawful authority. Such certificate shall be for the period of one year and must be renewed each year.

§ 51. MAY REVOKE CERTIFICATE OF FOREIGN ASSOCIATIONS.] Should the State Examiner find, upon examination, that such foreign association does not conduct its business in accordance with law, or that the affairs of such association are in an unsound condition, or such foreign association refuses to permit examination to be made, he may revoke the certificate of authority, and shall mail a notice thereof to the home office of such foreign association, and

cause a similar notice to be published once in a newspaper, published in the City of Bismarck, North Dakota. After publication of said notice it shall be unlawful for any agent of such foreign association to transact any business in this state except to receive payments to apply on loan contracts then in effect.

§ 52. FEES TO BE PAID BY FOREIGN ASSOCIATIONS.] All foreign building and loan associations shall pay to the State Examiner the following fees, which shall be paid to the State Treasurer as hereinbefore provided, to-wit: For filing each application for admission to do business in this state, five hundred dollars; for each certificate of authority and annual renewal of the same, two hundred dollars.

§ 53. EXAMINATIONS—FOREIGN ASSOCIATIONS.] Every foreign building and loan association doing business in this state shall be subject to the same examinations as are building and loan associations organized under the laws of this state; provided, that the expense of all examination of such foreign associations shall be paid by the association examined, upon bill approved by the State Examiner; provided that it shall not be necessary for such examination to be made but once in each year; provided, further, that such expense shall only include necessary traveling expenses of such examiner and the sum of not more than twenty-five dollars per day for each examiner for each day actually required in making such examination. Provided that the result of any similar examination made and certified by the duly constituted authority of any state having similar laws of supervision may be accepted by the State Examiner.

§ 54. CONTRACTS VOID IF MADE BEFORE COMPLIANCE WITH ACT.] If any such foreign association shall attempt or commence to do business in this state without having first filed said statement, certificate and consent, required by this Act, or without complying with any or all of the laws of North Dakota relating to the payment of fees or licenses, no contract made by them or any agent or agents thereof, during said time, shall be enforceable by them until the foregoing provisions have been complied with.

§ 55. CONTRACTS DEEMED MADE IN THIS STATE.] Any contract made by any foreign association with any citizen of this state shall be deemed and considered a North Dakota contract, and shall be so construed by all the courts of this state according to the laws thereof.

§ 56. UNSATISFIED JUDGMENTS FOREIGN ASSOCIATIONS.] If at any time any resident of this state shall recover judgment against such foreign association, and which judgment after thirty days shall not have been satisfied, the creditor holding such judgment, or his attorney, may prepare and file with the State Examiner an affidavit setting forth the fact of the recovery of said judgment, that the same has remained unpaid for thirty days, that no proceedings

are pending for the vacation of such judgment or an appeal therefrom, together with the petition of such creditor for the sale of securities on deposit with the State Treasurer sufficient to satisfy said judgment.

A copy of such affidavit and petition shall be by such creditor or his attorney served on such foreign association by registered mail, addressed to its principal place of business, and proof of such mailing shall be filed with such petition and affidavit with the Examiner.

Unless within ten days from the date of filing such petition and affidavit together with such proof of service, such association shall furnish to the Examiner satisfactory proof of the payment of said judgment, he shall issue an order to the State Treasurer for the sale of securities of such association, at current market value, sufficient to pay said judgment in full, together with five per cent thereon for his services and expenses. After a sale of securities as herein provided, such foreign association shall transact no new business in this state until any deficiency of securities caused by such sale shall have been made good by further deposit.

§ 57. MISDEMEANOR. FAILURE TO COMPLY.] It shall be unlawful for any association, whether foreign or domestic, and whether citizens of this state or otherwise, to do business, or attempt to do business, as defined in this Act without having first complied with its provisions and having received a certificate of authority to do business, from the State Examiner. Any such associations, violating any of the provisions of this Act, and failing to comply with any of its provisions, shall be fined not less than two hundred and fifty dollars and not more than one thousand dollars for each and every such violation, to be recovered by an action in the name of the state, and on collection paid into the state treasury. Any person or persons, whether citizens of this state or otherwise, who aids or assists any such association to do business contrary to the provisions of this Act, shall be guilty of a misdemeanor.

§ 58. SLANDER AND LIBEL. FELONY.] Any person who shall wilfully and maliciously make, circulate or transmit to another or others, any statement, rumor or suggestion, written, printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any building and loan association now existing under the laws of ~~or~~ doing business in this state, or that may be hereafter organized under this Act, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such statement or rumor, shall be guilty of a felony, and in addition thereto shall be liable in damages to such association, or the receiver thereof, to be recovered in a civil action brought for that purpose.

§ 59. INVALIDITY.] In the event that any section or clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent or final jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operation to the section, clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 60. PENALTY FOR VIOLATIONS.] Any officer of any building and loan association violating or knowingly permitting to be violated, the provisions of this Act, not hereinbefore specifically designated as a crime, shall be guilty of a misdemeanor.

§ 61. PENALTIES. HOW RECOVERED.] All fines and penalties herein provided for, to which any association under this Act may become subject, shall be recovered on complaint of the State Examiner, before any court having competent jurisdiction, and all fines and penalties so recovered shall be paid into the state treasury.

§ 62. PUNISHMENTS OF FELONIES AND MISDEMEANORS.] Every offense declared by this Act to be a felony is punishable by a fine not exceeding one thousand dollars or by imprisonment in the penitentiary for not less than one and not exceeding ten years, or by both such fine and imprisonment.

Every offense declared by this Act to be a misdemeanor is punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

In all cases where a corporation is convicted of an offense for the commission of which a natural person would be punishable, and there is no other punishment prescribed herein, such association is punishable by a fine of not less than five hundred dollars and not exceeding five thousand dollars.

§ 63. REPEAL.] Sections 5121, 5122, 5123, 5124, 5125, 5126, 5127, 5128, 5129, 5130, 5131, 5132, 5133, 5134, 5135, 5136, 5137, 5138, 5139, 5140, 5141, 5142, 5143, of the Compiled Laws of the State of North Dakota for the Year 1913, and Chapter 148 of the Session Laws of North Dakota for the Year 1923, together with all Acts amendatory thereof, and all other Acts or parts of Acts Repugnant to and Inconsistent herewith, are hereby repealed.

§ 64. SAVING CLAUSE.] Nothing in this Act contained repealing any law for the regulation or conduct of building and loan associations, shall be construed to release any person from punishment for any acts heretofore committed violating said law or laws, nor affect in any manner any existing indictment or prosecution thereunder; and for that purpose such laws shall continue in force and effect notwithstanding such repeal.

Approved March 12, 1931.

## CHAPTER 95

(S. B. No. 87—Committee on Banks and Banking.)  
By Request of the Voluntary Banking Code Commission.

**EFFECT OF CONSOLIDATION, MERGER, ETC., CORPORATIONS  
INCLUDING BANKS AND TRUST COMPANIES**

An Act amending and re-enacting Chapter 108 of the Session Laws of North Dakota for the year 1927, relating to, and defining the effect of, the consolidation, merger or other transfer of the business of corporations, including banks and trust companies, organized under the laws of this state or the laws of the United States, heretofore or hereafter effected.

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

§ 1. AMENDMENT.] That Chapter 108 of the Session Laws of North Dakota for the year 1927 is hereby amended and re-enacted to read as follows:

Section 2. CORPORATIONS. MERGER. EFFECT OF.] Whenever any two or more corporations, including banks and trust companies, organized under the laws of this state or the laws of the United States, have heretofore consolidated, merged or otherwise transferred, or shall hereafter consolidate, merge or otherwise transfer, its or their business, as the case may be, to another corporation, including banks or trust companies, organized or to be organized, under the laws of this state or the laws of the United States, the consolidated or new corporation, by whatever name it may assume, or be known, shall, unless otherwise provided in the agreement or order of merger or consolidation, be a continuation of the entities of each and all of the corporations, including banks and trust companies, so consolidated, merged or otherwise transferred to such consolidated or new corporation for all purposes whatsoever, and all of the rights, franchises and interests of said corporations, including banks and trust companies, so consolidated, merged or transferred in and to every species of property, real, personal and mixed and choses in action thereto belonging shall be deemed to be so transferred to and vested in the corporation which acquires the same on such consolidation, merger or other transfer without any assignment, deed or other transfer, and such corporation shall hold and enjoy the same and all rights of property, franchises and interests in the same manner and to the same extent as was held and enjoyed by the corporation or corporations, including banks and trust companies, so consolidated, merged or otherwise transferred, including the holding and performing by any bank or trust company of any and all trusts and fiduciary relations whatsoever as to and for which either or any of the banks or trust companies so consolidating, merging or otherwise transferring may have been,

or may be appointed, nominated or designated by any will, agreement, conveyance, or otherwise, whether or not such trust or fiduciary relation shall have come into being, or shall have taken effect at the time of such consolidation, merger or other transfer.

Approved March 10, 1931.

## CHAPTER 96

(S. B. No. 82—Committee on Banks and Banking.)  
By Request of the Voluntary Banking Code Commission

### REGULATION OF BANKING

An Act to provide for the government and regulation of banking within the State of North Dakota, to provide for the organization and operation of state banking associations, the administration of insolvent state banking associations and repealing Sections 5146, 5147, 5148, 5150, 5151, 5152, 5153, 5154, 5155, 5156, 5157, 5158, 5159, 5160, 5161, 5162, 5164, 5165, 5166, 5167, 5168, 5169, 5170, 5171, 5172, 5173, 5174, 5175, 5176, 5177, 5178, 5179, 5180, 5181, 5182, 5183, 5184, 5185, 5186, 5187, 5188, 5189, 5190, 5192, 5193, 5194, 5195, 5196, 5197, 5198, 5199, 5200, 5201, 5202, 5203, 5204, 10006, 10007, 10010, 10011, and 10012 of the Compiled Laws of North Dakota for the year 1913, Chapter 111 of the Session Laws for the year 1919, Chapters 138 and 139 of the Session Laws for the year 1923, Chapters 92 and 170 of the Session Laws for the year 1925, Chapters 91, 92, 93, 96, 97 and 98, of the Session Laws for the year 1927, Chapters 87 and 88 of the Session Laws for the year 1929, together with all acts amendatory thereof and all other acts or parts of acts repugnant to and inconsistent herewith.

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

§ 1. CREATION OF BANKING DEPARTMENT. STATE BANKING BOARD.]

(a) There is hereby created a Department of Banking which shall have charge of the execution of all laws relating to state banks, savings banks, trust companies, building and loan associations, mutual investment corporations, mutual savings corporations and other financial corporations heretofore or hereafter organized or doing business under the laws of the State of North Dakota, and engaged wholly or in part in the receiving of deposits or the selling of their certificates of indebtedness or other obligations to the public. Such department shall be designated as the "Department of Banking," and it shall be under the management and control of the State Banking Board and a chief officer to be known as the State Examiner.

(b) The State Banking Board shall consist of the Governor, the Secretary of State and the Attorney General. None of the members of said board shall receive any compensation for their services other than that now provided by law. The Governor shall be the chairman of said board and the Attorney General shall be ex-officio the attorney for the board, and the State Examiner shall be its

secretary. Said board shall hold regular meetings on the first Wednesdays of January, April, July and October of each year, at the office of the department in the state capitol at Bismarck, and special meetings at the call of the Governor.

(c) The said board shall have, and there is hereby vested in it, the power to make such rules and regulations for the government of such corporations, as in its judgment may seem wise and expedient, which rules shall not conflict with any laws of the State of North Dakota or of the United States. It shall be the duty of said board at each regular meeting and at any special meeting called for that purpose, to examine all reports made by said corporations relating to their condition, and all reports of regular and special examinations made by the State Examiner and deputy examiners from his department and filed with said board during the preceding quarter or such period as shall have elapsed since the last meeting of said board, and to approve or disapprove the same, and to make and enforce such orders as, in its judgment, may be necessary or proper to protect the public and particularly the depositors or creditors of said institutions. Said board and the State Examiner and deputy examiners shall have the power to subpoena witnesses, administer oaths, and generally to do and perform any and all acts and things necessary to the complete performance of the duties herein imposed, and to enforce all the provisions of this act, and for the purpose of enabling them to perform all the duties imposed upon them, the provisions of Section 8200, Compiled Laws 1913, shall be held as applicable to their proceedings. Any and all orders made by said board shall be immediately operative and remain in full force until modified, amended or annulled by such board, or by a court of competent jurisdiction in an action to be commenced by the party against whom such order may have been issued. Said board shall keep a full and complete record of all its proceedings and of all orders made by it, and the records of the State Banking Board, and of the State Examiner, and of any and all reports made by or filed with the board or the State Examiner shall, under proper restrictions, during regular business hours, be open to inspection and examination by stockholders, depositors, creditors and sureties on any bonds of any of said corporations or on the bonds of any officer or employee thereof. The said board, except as otherwise herein provided, is hereby vested with the power and authority to appoint by its own order, receivers for insolvent corporations as defined in this act, and such receivers shall have the same power and authority, and their acts the same validity as if appointed under and by the direction of a district court, but nothing herein contained shall be construed so as to take away from the courts the power to appoint receivers of such institutions at any stage of the proceedings and thus terminate the receivership ordered by the board.

§ 2. STATE EXAMINER. SUPERVISION BY. DUTY.]

(a) The State Examiner shall, under the direction and subject to the orders of the State Banking Board, exercise a constant supervision, either personal or through the deputy examiners hereinafter provided for, over the business and affairs of all the financial corporations placed by this act within the jurisdiction of the State Banking Board and shall, personally or through the deputy examiners herein provided for, visit at least twice each year all of said corporations, inspecting and verifying the assets and liabilities of each, and so far investigate the character and value of the assets of each such corporation as to ascertain with reasonable certainty that the values are correctly carried on its books. He shall further investigate the methods of operation and conduct of said corporations and their systems of accounting, to ascertain whether such methods are in accordance with the law and sound banking usage and principles, and report the findings, conclusions and recommendations upon such examinations to the Banking Board and put into force and effect such orders and directions as it may make in reference thereto.

(b) The State Examiner shall be ex-officio secretary of the State Banking Board, and shall keep all proper records and files pertaining to the duties and work of his office and the proceedings of the board and shall report to the board annually, touching on all his official acts and those of his deputy examiners, giving abstracts of statistics and of the conditions of the various institutions to which his duties relate, and making such recommendations and suggestions as he may deem proper, which report shall be printed and bound in a satisfactory and substantial manner and distributed among all of the state banking corporations and other corporations within his jurisdiction. The State Banking Board shall make biennial reports the same as other state officers and boards, in which there shall be included, with a full report of its proceedings, a summary or abstract of the reports of the State Examiner.

(c) It shall be the duty of the State Examiner to enforce the provisions of this act.

§ 3. APPOINTMENT OF DEPUTIES. DISTRICTS. SALARIES.]

(a) The State Examiner may, subject to the approval of the State Banking Board, appoint and at pleasure remove not more than thirteen deputy examiners, one reconciliation clerk, one stenographer and such other employees as may, in the judgment of the State Banking Board, be necessary for the proper discharge of the business of his department. Each deputy examiner shall give bond to the state in the sum of \$10,000.00 to be approved and filed in the same manner as the bond of the State Examiner. The



State Examiner shall select and designate one of said deputy examiners to be the office deputy and to act during the absence or disability of the State Examiner, and in such cases the deputy examiner so authorized shall have charge of the office and administer its affairs. Not less than six of the said deputy examiners so appointed shall have at least three years active experience in bank work within this state and shall furnish such evidence of qualification as expert accountants and general fitness for the duties as may be demanded by the Banking Board.

(b) Each deputy examiner herein provided for shall be under the direct orders and instructions of the State Examiner and shall make report to him in such form as he or the Banking Board may prescribe during or immediately after the completion of the examination of each financial institution examined by him, with such recommendations and suggestions as he may deem advisable.

(c) For the purpose of the better administration of his department, the State Examiner shall, immediately after the taking effect of this act, proceed to divide the state into six (6) districts which shall have, as nearly as may be, banks and other financial institutions of an equal number, and arranged with reference to convenience and economy in travel, and shall at once designate the district in which each of his six examiners shall make examinations, and such deputy examiners shall confine their work, as nearly as may be, to the examination of corporations located within their respective districts, except that any such deputy examiner may be temporarily transferred to other districts, or more than one deputy examiner may be assigned temporarily to any district when the proper performance of the work therein would indicate the necessity for so doing. No deputy examiner shall have any interest directly or indirectly in any corporation within the jurisdiction of the Banking Department, nor in any corporation engaged wholly or in part in the writing or issuing of bonds of or for any such corporation or of the officers or employees of any such corporation.

(d) The salary of the office deputy shall not exceed thirty-five hundred dollars per annum, and the salary of each other deputy shall be not less than fifteen hundred dollars nor more than three thousand dollars per annum, to be fixed by the State Banking Board, and in addition thereto each deputy shall be paid his actual and necessary traveling expenses when engaged in the discharge of his duties; the salary of the reconciliation clerk shall be eighteen hundred dollars per annum; and the salaries of all other clerks, stenographers and assistants shall be fixed by the State Banking Board.

§ 4. FEES FOR EXAMINATION.] Every corporation contemplated to be, by this act, placed under the jurisdiction and control of the State Banking Board, and made subject to the examination of the State Examiner and his deputy examiners, shall if a new

corporation, prior to receiving its certificate of authority to commence business, and in all cases within ten days after each examination, pay into the State Treasury the following fee, to-wit: A fee of one and one half hundredths of one per cent of the gross amount of the assets of said bank on the day of examination, exclusive of expences, interest and taxes paid; provided that the fee hereunder shall be not less than fifteen dollars and not more than two hundred dollars.

The Treasurer shall report such payments to the State Banking Board, and if any such corporation shall be delinquent more than twenty days in making such payments, the board may make an order suspending its functions until such payment of the amount due and a penalty of five dollars a day additional for the delay.

§ 5. SECRETARY TO KEEP BANK RECORD.] It shall be the duty of the secretary of the State Banking Board to keep a "bank record" wherein shall be recorded the name and location of each bank in the state, its capitalization and changes thereof, its officers, its shareholders and addresses thereof, and its reserve agents, and changes of the same, and in docket form such other proceedings as may have been had relative to the same, by the State Banking Board, and by the State Examiner.

§ 6. STATE BANKING ASSOCIATIONS DEFINED.] Every corporation organized under the laws of this state for state banking associations or savings banks, and corporations or other associations excepting national banks and trust companies, whose business in whole or in part consists of the taking of money on deposit, shall be held and are hereby declared to be state banking associations, and as thus defined shall be subject to the provisions of this act.

§ 7. COMPLIANCE WITH LAW GOVERNING. PENALTY.] No individual, firm, company, copartnership, or corporation, either domestic or foreign, not organized under this act, except only national banking corporations and the Bank of North Dakota, shall hereafter in signs, letterheads, advertising, or in any other way make use of and display in connection with its business such words as "bank," "banker," "banking," "savings bank," or any other word or words of like import; nor shall there be done or performed by any person or concern, whatsoever, anything in the nature of the business of a bank or savings bank, unless and until such business is regularly organized and authorized under this act; and any individual, firm, company, copartnership or corporation, either foreign or domestic, now making use of any of the said words or titles, or similar words, in violation hereof, shall within ninety days after the enactment of this law in every way discontinue the use of such words or titles. If any heretofore organized firm or corporation shall have been granted a charter permitting it to use any such word, words or title contrary to the intent hereof, and, by reason

of the rights under such charter, the provisions of this act may not be enforced against such firm or corporation during the life of such charter, no renewal charter shall be granted such corporation permitting the continuance of the use of such word, words or title, contrary hereto or in violation hereof. Any firm or corporation, which, by reason of an existing charter right under any statutes enacted prior hereto, may be held by the court to be not affected hereby, and which therefore refuses to comply with the provisions of this act, shall hereafter prominently and continuously display in plain, legible and clearly discernible lettering on all of its signs, stationery, circulars and advertising, and in all of its printed or written matter, and as prominently as is such other matter displayed, the following words and language: "NOT UNDER THE SUPERVISION OF THE STATE BANKING BOARD OR THE STATE EXAMINER."

Any person, firm, company, copartnership, corporation, domestic or foreign, violating any provision of this section shall forfeit to the state \$100.00 for every day or part thereof during which such violation continues. Upon action brought by the State Examiner or any aggrieved person, the court may issue an injunction restraining any such person, firm, company, copartnership or corporation from further using such words, terms or phrases in violation of this section or from further transacting business in such a way or manner as to lead the public to believe that its business is in whole or in part of the nature of a bank or savings bank, or that it is under the supervision of the State Banking Board or the State Examiner.

§ 8. BANKING CORPORATIONS. WHO MAY FORM.] Associations for carrying on the business of banking under this act may be formed by any number of natural persons, not less than three, two-thirds of whom shall be residents of this state. They shall enter into articles of association which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with law, which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. These articles shall be signed and acknowledged by the persons uniting to form the association and shall be filed in the office of the Secretary of State.

§ 9. ORGANIZATION CERTIFICATE. CONTENTS] The persons uniting to form such an organization shall, under their hands, make an organization certificate which shall specifically state:

(a) The name assumed by such association, which name shall not be the name of any other bank in this state, nor of any bank heretofore incorporated in the State of North Dakota, or in the Territory of Dakota.

(b) The place where the business of discount and deposit is to be carried on.

(c) The amount of the capital stock and the number of shares into which the same shall be divided.

(d) The names and places of residence of the shareholders and the number of shares held by each of them.

(e) The period at which such bank shall commence and terminate business.

§ 10. CERTIFICATES OF AUTHORITY OF BANKS.]

(a) The organization certificates shall be acknowledged before the clerk of some court of record or a notary public and shall be, together with the acknowledgment thereof, authenticated by the seal of such court or notary. The same shall thereupon be transmitted to the State Banking Board with a request for permission to present the same to the Secretary of State, with application to him for the issuance of a certificate of authority. Upon receiving such organization certificate the board shall cause notice of the application therefor to be published in the official newspaper of the county within which such association is proposed to be established, which notice shall contain a statement of a time and place where the board will hear such application and that any person objecting thereto may appear and show cause why such application should not be approved.

At the time and place so stated, and through any other sources of information at its command, the board shall diligently inquire whether the place where such banking association is proposed to be located is in need of further banking facilities, and whether the proposed association is adapted to the filling of such need, and whether the proposed incorporators are possessed of such character, integrity, reputation and financial standing as shown by a detailed financial statement, that their connection with the banking associations will be beneficial to the public welfare of the community in which such bank is proposed to be established. The board shall hear any reasons advanced by the applicants why they should be permitted to organize the proposed association, and any reasons advanced by any person in opposition thereto why such association should not be permitted to be organized. At the termination of such hearing the board shall make a brief statement in writing of its conclusions whether such association should be permitted to be organized, and if it finds that it should not, stating briefly the reasons why. A copy of such conclusions shall be either indorsed upon or attached to the organization certificate, together with the refusal or grant of permission to be (the) proposed incorporators to present the said organization certificate to the Secretary of State. Provided, however, the determination in favor of such organization must be joined in by all the members of the board.

If the determination of the State Banking Board is in favor of the applicants, the organization certificate and permission of the

board accompanying the same, shall be recorded in the office of the register of deeds in the county where such banking association is to be established, and the same shall be transmitted to the Secretary of State and received by him, and he shall record and carefully preserve it in his office, and certify the facts to the State Banking Board, and issue a certificate of authority to the corporation, which certificate of authority shall be transmitted to and held by the State Examiner until an examination is made and the certificate of the State Examiner or the deputy examiner procured to the effect that the capital stock and required surplus has been paid in full and that all conditions of the law have been strictly complied with. But if the determination of the State Banking Board is against the said application, such organization certificate must not be either recorded in the office of the register of deeds, or, if presented, received by the Secretary of State.

(b) If any part of this section granting powers to the State Banking Board shall be held to be invalid, such part shall not be deemed to have been the inducement to the granting of any other powers, and shall not invalidate the section as to any such other powers.

§ 11. CERTIFICATE AND AUTHORIZATION PUBLISHED.] The association shall cause the organization certificate and the certificate of authority of the Secretary of State, issued under this act, to be published in some newspaper in the city or county where the association is located, for at least four consecutive weeks next after the issuing thereof, proof of such publication to be filed with the State Banking Board.

§ 12. ARTICLES AS EVIDENCE.] A certified copy of the articles of incorporation of any banking association, organized under the provisions of this act, may be used as evidence in all courts for or against any person or such banking association for or against whom such evidence is necessary, whether on civil or criminal trials.

§ 13. POWERS.] Upon making and filing articles of association and an organization certificate, the association shall become, as from the date of the execution of the same, a body corporate, and as such and in the name designated in the certificate, it shall have the power:

(a) To adopt and use a corporate seal.

(b) To have succession for a period of twenty-five years from its organization, unless it is sooner dissolved, according to the provisions of this act, or unless the franchise becomes forfeited by some violation of law.

(c) To make contracts.

(d) To sue and be sued.

(e) To elect or appoint directors, which board shall consist of an uneven number not less than three nor more than eleven, a majority of whom must be residents of the State of North Dakota, and by such board of directors to appoint a president and vice-president, who shall be members of said board, a cashier and such other employees as may be required; define their duties, require bonds of them and fix the penalty thereof; dismiss such officers or any of them, and appoint others to fill their places.

(f) To provide by its board of directors, by-laws not inconsistent with the laws of this state, to regulate the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its business conducted, and the privileges granted it by law exercised and enjoyed; provided, however, vacancies in the board of directors, not exceeding one-third of the whole membership thereof in any calendar year, must be filled by a majority vote of the remaining members.

(g) To exercise by its board of directors, or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking, by discounting and negotiating promissory notes, bills of exchange, drafts and other evidences of debt, by receiving deposits, by buying and selling exchange, coin and bullion, by loaning money upon real or personal security, or both; but no association shall transact any business, except such as is incidental and necessarily preliminary to its organization, until it has been authorized by the Secretary of State to commence the business of banking, and the Secretary of State may withhold from any association his certificate authorizing the commencement of business whenever he has reason to believe that the shareholders have formed the same for any other than legitimate objects as contemplated by this act.

(h) No such association shall own or carry among its assets at any one time loans dependent wholly upon real estate security in any amount exceeding twenty-five per cent of its total loans and discounts, and then only upon first mortgages constituting first liens thereon and which shall not exceed forty per cent of the actual cash value of the property mortgaged. Before any such loan is made the board of directors shall appoint from among its members a committee which shall make actual inspection of the security offered and shall appraise both the land and the improvements thereon, if any, and shall report to the board of directors in writing the results of such appraisal together with such other facts relating to such proposed loan and proposed security as will best enable the board to determine if such loan shall be granted, and such written report shall be made a matter of permanent record in the bank's files and made available to the State Examiner. No

director shall act as an appraiser of his own property nor of property offered as security for loans the proceeds of which are to be used for his benefit. No such loan shall be made for a longer period than five years. Any mortgage so taken shall be immediately recorded in the office of the register of deeds of the county in which the security is situated, and such mortgage shall provide that the mortgagor will pay taxes and insure the improvements for the benefit of the mortgagee and that in default thereof the mortgagee may pay the taxes and insure the improvements. And before any advance or credit shall be given of or for any part of such intended loan the mortgagor shall deliver to such bank an abstract of title, by a bonded abstracter, to the security offered, which abstract must show the mortgage thereon, and that the title is in the mortgagor, marketable and free of prior lien or encumbrance, and shall also deliver to such bank insurance policies in known reliable companies insuring the building improvements to the amount of their insurance value with mortgage clauses attached thereto payable to such bank or its assigns as mortgagee.

In selling or disposing of said loans so made upon real estate security no such association shall have power to guarantee the payment or collection thereof, and any such guarantee made in violation of this provision shall not be binding on such association but shall be upon the officer or other person making the same.

§ 14. INVESTMENT IN BANKING HOUSE. FURNITURE AND FIXTURES.] It shall be unlawful for any corporation having banking powers and a capital stock of twenty thousand dollars or more, to invest over thirty per cent of such stock and unimpaired surplus in banking house, furniture and fixtures, including the lot, piece or parcel of land on which such banking house is located; provided, that similar corporations with a capital stock of ten thousand dollars and less than fifteen thousand dollars may invest forty per cent of their stock and unimpaired surplus, and those with fifteen thousand dollars and less than twenty thousand dollars stock may invest thirty-five per cent of their capital stock and unimpaired surplus in such banking house, furniture, fixtures, and lot, piece or parcel of land on which such banking house is located.

§ 15. POWERS AS TO OTHER REAL ESTATE.] Every state banking association shall have the power to purchase, hold and convey other real estate as herein provided, and not otherwise:

1st. Such as shall be mortgaged to it in good faith by way of security for loans, or for debts previously contracted;

2nd. Such as shall be conveyed to it in good faith in satisfaction of debts previously contracted in the course of its dealings;

3rd. Such as it shall purchase at sales under judgments, decrees or mortgages held by the corporation, or shall purchase to

secure debts due it; but no banking corporation shall hold the possession of any real estate under mortgage, or title and possession of any real estate purchased to secure indebtedness, for a longer period than five years from date of acquiring title thereto, unless such time has been extended by certificate of the State Examiner.

§ 16. VIOLATION. POWERS. PENALTY.] Any banking corporation violating the provisions of the three preceding sections of this act relating to "Powers" shall at the discretion of the State Banking Board forfeit its charter. Any officer, director, or employee who knowingly violates or permits the violation of any of the provisions hereunder shall be guilty of a misdemeanor.

§ 17. CAPITAL STOCK.] Hereafter no banking association shall be organized under this act with a capital stock of less than fifteen thousand dollars, nor in towns or cities of over one thousand inhabitants with a capital stock of less than twenty thousand dollars; nor, in cities of over two thousand inhabitants, with a capital stock of less than thirty thousand dollars; nor, in cities of over three thousand inhabitants, with a capital stock of less than thirty-five thousand dollars; nor, in cities of over four thousand inhabitants, with a capital stock of less than forty thousand dollars; nor, in cities of over five thousand inhabitants, with a capital stock of less than fifty thousand dollars; and in addition to the capital requirements herein provided for there shall also be subscribed and paid in at time of organization a surplus equal to twenty per cent of such required capital. All of the capital stock and surplus of every such association as herein provided shall be paid in before it shall be authorized to commence business, and evidence of such payment of capital stock and surplus either in actual money or a deposit in a previously approved correspondent bank must be furnished to the State Examiner or deputy examiner before the certificate of authority may be delivered. For the purpose of this section, the population of the city may be determined by using the population shown by the most recent state or national census. No association having been organized to transact business in any city and which may have sold or converted its business to a national bank, or other banking business which is continued at the same place, shall be allowed to remove its charter or its articles of incorporation to, and recommence business at, another place; but where it can be clearly shown that a banking association which has not changed, sold or conveyed its business as hereinbefore recited, is located at a place where there is not sufficient business for the profitable conduct of a bank, such association may apply to the State Banking Board for authority to remove its business to some other place within the state and to change its name if desired; and upon the approval of such application by the State Banking Board and the proper amendment of the articles of incorporation, the board may issue authority for



such removal and change; provided, that no such association shall be allowed to remove its business to any city without having the full amount of capital stock and surplus required by this act for a new organization in such city. A renewal charter shall not be granted until satisfactory evidence has been furnished the State Banking Board that the capital and surplus of the association seeking to renew is increased if necessary to conform with the requirements of this act relating to new banks and that its articles of incorporation have been properly amended and its required capital and surplus paid in.

§ 18. IMPAIRMENT OF CAPITAL. REDUCTION. RESTORED. ASSESSMENT.] Whenever the capital of any state banking association becomes impaired, or the capital stock reduced below the amount required by law or the articles of incorporation, no dividend shall be declared or distribution of profits be made thereafter while any debts of the association remain unsatisfied, and until such impairment or deficiency is made good. Whenever it shall appear that the capital of any state banking association has become impaired, or its capital stock so reduced, the State Examiner shall immediately report the same to the State Banking Board. Such board shall thereupon immediately issue and enforce the necessary order restraining the declaring of dividends and requiring that such impairment or deficiency be made good.

When the capital of any such association shall become impaired or its capital stock so reduced, the board of directors of such association shall have the power, and it shall be its duty, whether ordered by the State Banking Board or not, to immediately make a pro rata assessment upon all the outstanding stock of such association to make good such impairment or deficiency, and to serve notice thereof by registered mail upon each stockholder of record, directed to such stockholder at his address last known to the board. Provided, however, that any such assessment or assessments shall not in the aggregate exceed one hundred per cent of the face value of such stock in the first year and not to exceed 25% in any succeeding year. Such notice shall specify the date on which such assessment shall be due and payable, which date shall not be less than ten nor more than thirty days after the date of mailing such notice of assessment.

Whenever the capital of any such association shall be impaired, or its capital stock reduced below the amount required by law or its articles of incorporation, such impairment must be made good and the capital stock must be restored to the amount required by law and its articles of incorporation, within sixty days thereafter, otherwise the State Examiner may forthwith, upon the order or direction of the State Banking Board, take charge of such state banking association and proceed to liquidate the same as in case of insolvency.

§ 19. IMPAIRMENT. NOTICE TO EXAMINER. MISDEMEANOR.]

It shall be the duty of the president, cashier, or other officer in active charge of any state banking association to immediately notify the State Examiner by registered mail of any impairment of capital or reduction of capital stock thereof, and any such officer failing so to do shall be guilty of a misdemeanor.

§ 20. CAPITAL STOCK. HOW INCREASED OR REDUCED.]

(a) Any association formed under this act may, by its articles of association, or by subsequent resolution, or written agreement of the holders of a majority of its stock, provide for an increase of its capital stock from time to time as may be deemed expedient, subject to the limitations of this act, and upon approval of the State Banking Board. But no increase of capital stock shall be valid until the whole amount shall be paid in cash, and such payment certified under oath by the president or cashier of such association to the Secretary of State, who shall give his certificate that the provisions of this section have been complied with, and specifying therein the amount of such increase in capital stock, and that it has been duly paid in as part of the capital thereof, nor until a copy of such certificate shall be filed with the State Banking Board.

(b) Any association formed under this act may, by vote of its shareholders owning two-thirds of its stock reduce its capital to any sum not below the amount required by this act to authorize the formation of the association, but no such reduction shall be made until the amount of the proposed reduction is reported to the State Banking Board and its approval thereof obtained in writing, and no such reduction shall be construed as affecting the liability of shareholders for any debts of the association incurred prior to such reduction. Every such reduction before the same shall become valid must be certified to and a copy of the certificate filed in the same manner as for an increase of capital stock.

(c) Notice of the time and place of meeting, stating its object and the amount to which it is proposed to increase or diminish its capital stock must be personally served on each stockholder resident in the state, sixty days prior to the time of such meeting, at his place of residence, if known; and such notice must be given to stockholders whose place of residence is unknown or who are not residents in the state by the publication of such notice in a newspaper published in the county where the principal office of the association is situated, not less than once a week for sixty days prior to such meeting. No vote in favor of such increase shall take effect until the proceedings of such meeting, showing the names of all of the stockholders voting therefor and the amount of stock owned by each, shall be entered upon the records of such corporation.

(d) If all of the stockholders of such association agree in writing to such increase or reduction in capital stock, then no meeting need be called for the purpose of effecting such increase or reduction, but the directors shall file such agreement in writing with the Secretary of State together with the further certificate hereinbefore provided for, and the Secretary of State shall thereupon issue his certificate that the provisions of this section have been complied with.

§ 21. SHARES. VALUE. LIABILITY OF SHAREHOLDERS.] The capital stock of each state banking association shall be divided into shares of one hundred dollars each, and be deemed personal property and transferable on the books of the association in such manner as may be prescribed by the by-laws or articles of such association; provided, however, that all qualifying shares issued to a director of the association shall be issued in a separate certificate or certificates which shall have legibly marked in ink across the face thereof the words "director's qualifying shares," which shares during the whole time that such director shall continue in office as a director shall remain in the custody of the State Examiner to whom they shall be sent with such director's oath of office and shall not be subject to transfer, pledge or hypothecation in any manner or to any extent whatsoever until a written resignation of such director shall have been filed with and accepted by the board of directors or such director becomes otherwise disqualified; upon the resignation or disqualification of any director, such qualifying shares shall be returned to the owner and shall upon demand be reissued in the name of the owner, his assigns, or his legal representatives; but no transfer of any stock shall be valid against the bank or any creditor thereof so long as the registered holder of such stock shall, as principal debtor, surety, guarantor, or otherwise, be indebted to the bank; nor in any case shall any dividend, interest or profit be paid on such stock as long as any past due and unpaid liability of the shareholder continues, but such dividend, interest or profit shall be retained by such bank and applied to the discharge of such past due and unpaid liability. Every person or corporation becoming a shareholder by such transfer shall in proportion to his shares succeed to all rights and liabilities of prior holders of such shares existing by reason of ownership thereof, and no change shall be made in the articles of incorporation or by-laws by which the rights, remedies or security of the existing creditors of the association shall be impaired.

§ 22. RESPONSIBILITY OF SHAREHOLDERS.] The shareholders of every association organized under this act shall be individually responsible, equally and ratably, and not one for another, for all contracts, debts and engagements of such association made or entered into to the extent of the amount of his stock therein at the par value thereof, in addition to the amount invested in and due

on such shares. Such individual liability shall continue for one year after the recording on the books of the association of any transfer or sale of stock by any stockholder or stockholders.

§ 23. DELINQUENT STOCK. HOW SOLD.] Whenever any shareholder or his assignee fails to pay any assessment on the stock when the same is required to be paid, the directors of such association may sell at the best price obtainable so much of said stock as is necessary to pay such assessment and costs of such sale, at public or private sale as appears to them best for all concerned, on a day certain, not less than thirty days after the day fixed for payment of such assessment; notice of time and place of which sale shall be given to the stockholder as follows, viz: in event of private sale, by forwarding such notice to the person or persons in whose name the stock stands in the association stock book, by registered mail to such stockholder's last address known to the board of directors and at least twenty days prior to the date thereof; and, in event of public sale, by one publication of a notice thereof in a newspaper published and in general circulation in the city or county where the association is located, not less than twenty days prior to such sale. Any proceeds of such sale remaining after the said assessment and expenses of sale have been fully paid shall be thereupon paid over to the said shareholder or his assignee or pledgee; and such sale of stock, as herein provided, shall effect an absolute cancellation of such outstanding certificate or certificates in the hands of such delinquent shareholder, his assignee or pledgee, and a new certificate shall be issued and delivered by the bank to the purchaser thereof for the number of shares purchased, and a new certificate for the remaining shares, if any, issued to the said stockholder, and delivered to him, his assignee or pledgee, upon the surrender of the original certificate or certificates involved; provided, however, that if no bidder appears at the time and place of sale who will pay for the stock the amount due to the association thereon together with costs and expenses of sale, then no sale shall be made and any amounts previously paid therefor or thereon shall be forfeited to the association together with the total number of said shares and the association shall proceed forthwith to cancel such shares upon its books and records, deduct such from the capital stock thereof, and immediately notify the State Examiner of such cancellation. Such forfeiture and cancellation shall not impair the right of the association to take such further action as to it seems best to recover the amount of such assessment from such delinquent shareholder. Where, following such sale or cancellation, the record of such stock book is completed accordingly, such record shall be prima facie evidence of the regularity of the proceedings of such sale or cancellation.

§ 24. LOANS ON SHARES PROHIBITED.] No association shall make any loan or discount on the security of the shares of its own

stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased shall within thirty days be sold or disposed of at public or private sale. If such stock is not sold within the period last herein provided, the same shall be cancelled and deducted from the capital stock of said association.

§ 25. LIST OF SHAREHOLDERS TO BE KEPT AND FILED.] The president, or cashier of every bank formed pursuant to the provisions of this Act, shall at all times keep a true and correct list of the names and postoffice addresses—which addresses shall be verified every six months—of all shareholders of such bank, with the amount of stock held by each, the time of transfer and to whom transferred, and shall file a copy of such list in the office of the county auditor and in the office of the State Examiner on the first Monday of January and July in each year.

§ 26. DIRECTORS. QUALIFICATIONS OF.] Every director must own in his own right, free from hypothecation or pledge for any debt, at least ten shares of capital stock of the association of which he is a director, which said shares shall be known as “director’s qualifying shares” and shall be issued and placed in charge of the State Examiner; any director who ceases to be the owner of ten shares of the stock \*(free) and non-hypothecated, or who becomes in any manner disqualified shall thereupon vacate his office. Every such director when elected or appointed shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such association, that he will not knowingly violate or willingly permit to be violated, any of the provisions of this Act, that he is a bona fide owner of the number of shares of stock required by this Act to become a director, standing in his own name on the books of the association, and that said stock is in his possession and control or in the possession of the State Examiner and is not hypothecated or in any way pledged as security for any debt. Such oath, subscribed by the director making it, and certified by the office before whom it was taken, together with such qualifying shares, unless such shares are already on file with the State Examiner, shall at once be transmitted to the State Examiner to be filed in his office.

§ 27. DIRECTORS. SEMI-ANNUAL EXAMINATION. REPORT.] It shall be the duty of the board of directors in January and July of each year to make a careful and thorough examination of the assets of the bank, examine stock, checks, certificates of deposit and cashier’s checks, count cash, examine loans and discounts of every nature, with the securities and collaterals belonging thereto, compare

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\*Word “(free)” appears in original bill but was evidently omitted inadvertently from enrolled law. It has been inserted to assist in showing probable intent of legislature.

the aggregate with the records and make a complete report of such examination in such form as may be designated by the State Banking Board, with suggestions and criticisms, if in their judgment such are necessary, which report shall be spread on the records of the bank the same as the minutes of a regular meeting of the board of directors, and a duplicate thereof transmitted to the State Banking Board.

§ 28. REPORTS. REGULAR AND SPECIAL. PUBLICATION. PENALTY.] Every state banking association, shall make three or more reports each year to the State Examiner, the number to be determined by the State Banking Board, in such form as the State Banking Board shall prescribe; such forms to be as nearly as possible like those prescribed by the Comptroller of the Currency for similar reports for national banks. Such reports shall exhibit in detail, under appropriate heads, the resources and liabilities of the association at the close of the business on a past day by him specified, which shall if practicable, be the same day for which similar reports are required from national banking associations within the state by the Comptroller of the Currency of the United States. Each report must be verified by the oath of the president or the cashier, and attested as correct by at least two of the directors, and must be transmitted to the State Examiner within seven days after receipt of the request for the same, and an abstract of not less than three of such reports in a form prescribed by the board, shall be published, at the expense of the association, in some newspaper in the city, town or village where such bank is located, and in case there is no such newspaper, then in a legal newspaper of the county in which such association is located. The State Banking Board shall also call for a special report from any association whenever in its judgment the same is necessary in order to obtain full and complete knowledge of its condition. Every association which fails to make and transmit any report required in pursuance of this section, shall forfeit and pay to the state a penalty of two hundred dollars for each delinquency.

§ 29. OATHS, BONDS, OFFICERS AND EMPLOYEES.]

(a) Every active officer of any state banking association organized under this Act shall, before entering upon the duties of his office, take and subscribe an oath that he will so far as the duty devolves upon him, diligently and honestly administer the affairs of such association, and that he will not knowingly violate, or willingly permit to be violated any of the provisions of this Act. All such oaths shall be presented to the board of directors and a synopsis thereof recorded in the directors' record and then filed with the State Banking Board.

(b) All officers and employees of any state banking association shall, before entering upon their duties, furnish a good and sufficient bond to the association in such sum and upon such conditions as may be required by the board of directors in keeping with

rules and regulations relative thereto established by the State Banking Board. All such bonds shall be approved by the board of directors of such association and shall be subject to the approval of the State Banking Board. A record of the approval of such bonds by the board of directors of such association shall be made on the records of the bank, and such bonds shall be filed with the State Banking Board. Stockholders of such banks shall not be eligible as bondsmen for such officers.

§ 30. RESERVE FUND.] Each banking association shall at all times have on hand in available funds an amount which shall equal twenty per cent of its demand deposits and amounts due to other banks and ten per cent of its time deposits; three-fifths of this amount may consist of balances due to the association from the Bank of North Dakota, or good solvent state or national banks or trust companies approved by the State Banking Board for such purposes, and located in such commercial centers as will facilitate the purposes of banking exchanges, and the remaining two-fifths of such reserve shall consist of actual cash on hand; cash items shall not be included in computing reserve, and no association shall carry as cash, or cash items, any paper or other matter except legitimate bank exchange which will be cleared on the same or next succeeding day. Provided, however, that any state banking association with the permission of the State Banking Board may carry not to exceed one-fourth of its legal reserve in United States Certificates of Indebtedness, United States bonds, North Dakota land series bonds, Bank of North Dakota bonds, and North Dakota Mill and Elevator bonds. Whenever the available funds within the meaning of this Section shall be below the requirements hereinbefore stated, such association shall not increase its liabilities by making any new loans or discounts other than by discounting or purchasing bills of exchange, payable at sight, or make any dividend of its profits until the required proportion between the aggregate amount of the deposits and its lawful money reserve has been restored and the State Banking Board must notify any association whose lawful money reserve shall be below the amount required to be kept on hand to make good such reserve and if such association shall fail to do so for a period of thirty days after such notice, the State Banking Board may impose a penalty of not less than one hundred dollars or more than five hundred dollars which shall be collected in the same manner as other penalties prescribed in this Act.

§ 31. SURPLUS FUNDS. DIVIDENDS.]

(a) Every banking association doing business shall semi-annually, or annually, as its governing board shall deem advisable, ascertain and set apart and convert into a surplus fund at least fifty per cent of its net earnings until such surplus shall equal one hundred per cent of its capital stock, and no dividend shall be declared upon its stock except from the remaining fifty per cent of its net earnings.

Such surplus is intended to strengthen the banking associations of the state and safe-guard the depositors and it shall, therefore, be exempt from taxation and not taken into account in determining the taxable value of the shares of stock of banking associations.

(b) If at any time the surplus of a banking association, shall fall below the highest point it shall have theretofore attained, no dividends shall be declared on the capital stock until such surplus has been restored to such highest point, and until it is so restored all of the net earnings shall be converted into such surplus fund.

§ 32. DIVIDENDS PROHIBITED WHEN. BAD DEBTS.] No association nor any officer thereof shall, during the time it shall continue its banking operations, withdraw or permit to be withdrawn, either in form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by such association, equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall be made by any association while it continues its banking business to an amount greater than its net profits on hand, deducting therefrom its losses and bad debts. All debts due to an association made or continued in violation of any of the provisions of this Act, shall be considered bad debts within the meaning of this Section, and the State Banking Board is empowered, and it is made the duty of such Board, to ascertain and designate such bad debts, to make and enforce such orders and to institute such proceedings as may be deemed necessary to dispose of the same or to convert them into good assets.

§ 33. ASSETS NOT TO BE USED IN OTHER BUSINESS. EXCEPTION. MISDEMEANOR.] No bank, except as in this section specifically authorized, shall as principal employ its money or other of its assets, directly or indirectly, in trade or commerce, nor employ or invest any of its assets or funds in the stock of any corporation, bank, partnership, firm or association. nor shall it invest any of its assets in speculative margins of stock, bonds, grain, provisions, produce or other commodities, except that it shall be lawful for banks to make advances for grain or other products in store or in transit to market; provided, nevertheless, that this Section shall not be construed as in any way preventing a bank from investing such part of its funds in stock of the Federal Reserve Bank of this district as may be necessary to become a member of the Federal Reserve Association and from carrying such stock among its assets; and provided further, that any bank now or hereafter organized and doing business under the laws of this state is hereby authorized and empowered, under such rules and regulations as may be prescribed by the State Banking Board, to invest in the capital stock of any agricultural credit corporation which is organized under the laws of this state, and which agrees to subject itself to examination by the State



Examiner of this state as hereinafter provided and which said agricultural credit corporation is entitled to discount privileges with the Federal Intermediate Credit Bank of St. Paul, Minnesota, under the following conditions, to-wit:

1st. The amount of such investment shall at no time exceed the sum of ten thousand dollars.

2nd. Before any such bank shall make such investment it shall make application to the State Banking Board furnishing such information as shall be required by said Board. If said State Banking Board, in its discretion, approve such application it shall notify such bank specifying the amount of investment authorized.

3rd. The majority of the stock and the control of such corporation shall at all times be held and retained by any such bank.

4th: All such agricultural credit corporations shall be subject to examination by the State Examiner at the times and in the manner now or hereafter provided by law for the examination of banks, shall make annual reports to said Examiner upon forms prescribed by him, and shall comply with such requirements, rules and regulations as may be prescribed by the State Banking Board.

5th. No bank shall, directly or indirectly, make, purchase or own any loan or obligation of any person, firm or corporation which is the debtor of any agricultural credit corporation in which said bank is a stockholder, and which loan or obligation is secured in whole or in part by any property pledged or given as security for the loan or obligation of such debtor to such agricultural credit corporation.

Any officer, director or employee of any such investing bank who shall violate any of the provisions of this Section shall be guilty of a misdemeanor.

§ 34. BORROWING. RE-DISCOUNTING. RE-PURCHASING. PLEDGING. FORECLOSURE. REDEMPTION. PENALTY.]

(a) UNLAWFUL RE-DISCOUNTS, BORROWING, PLEDGING, VOID. No state banking association shall, directly or indirectly, make any re-discount, or contract to borrow, or borrow money, or pledge or hypothecate, or contract to pledge or hypothecate any of its assets except in accordance with the provisions of this Section.

Any contract to borrow money, any pledge or hypothecation of any of its assets, or the sale of any of its pledged assets by any state banking association, made in violation of this Section shall be null and void, and of no force and effect, and shall not be binding on any of the parties affected thereby.

(b) BORROWING, NORMAL AND EMERGENCY. LIMITATIONS. Any state banking association shall have power to contract for and to borrow money as follows:

1. A sum equal to twenty per centum of its deposits without the prior authorization therefor by the State Examiner.

2. A sum in excess of the preceding limitation only after prior authorization by the State Examiner, granted upon the application of such banking association, for the following purposes only: restoring depleted legal reserve, or in anticipation of such depletion within thirty (30) days; to protect the assets of such bank; to avert any other actual or imminent emergency which, in the judgment of the State Examiner, would be dangerous to the interest of such bank, or its depositors and other creditors.

Such authorization shall be granted by the State Examiner only after examination by him of the affairs of such banking association, and such authorization shall be granted and exercised under rules and regulations adopted, and orders prescribed, by the State Banking Board.

(c) BORROWING BY BANK. AUTHORIZATION. RECORD. Every state banking association shall, prior to the borrowing of money, or rediscounting with endorsement, receive approval by action of its board of directors, to be evidenced by resolution recorded upon its minute book, and no banking association shall have power to contract and to pledge or hypothecate any of its assets without resolution of its board of directors authorizing the same, spread upon its minute book, and each proposed loan, either with or without security, or re-discount with endorsement, shall be acted upon separately by such board. Instruments evidencing such loans, pledges and hypothecations and endorsement upon re-discounts, shall be executed by the officer or officers designated in such resolution, and all such loans and rediscounts shall immediately be entered and carried upon the account books and records of the association as bills payable, or re-discounts, as the case may be. Copies of such minutes, books and records authenticated by the oath of an officer of such association shall be sufficient to support such loan, re-discount or pledge. A complete record and description of the pledged assets and re-discounts shall be entered and maintained by such banking associations in a book devoted to the purpose, the form of which shall be prescribed by the State Examiner.

(d) RE-DISCOUNTS. RE-PURCHASING. LIMITATIONS. In addition to its power to borrow as herein prescribed, any state banking association shall have power to incur liability in an amount equal to ten per centum of its deposits, upon endorsement of notes and bills re-discounted, but it shall have no power to incur any obligation or liability to re-purchase loans and discounts, bills receivable or other assets disposed of by it.

The State Examiner, under rules and regulations prescribed by the State Banking Board, shall have power to increase the limit of liability upon endorsements by such state banking associations upon

notes and bills re-discounted as in his judgment seems best. The discount of bills of exchange, drawn in good faith against agricultural products, raw or manufactured, and other commodities of trade in transit, shall not come within the provisions hereof.

(e) PLEDGE. RATIO TO ASSETS. It shall be unlawful for any state banking association to pledge or hypothecate more than one and one-half dollars of the face value of any of its assets for each one dollar of money borrowed, excepting for money borrowed upon authorization of the State Examiner who shall fix the amount and kind of assets which may be pledged or hypothecated for such purpose.

(f) PLEDGEE. POWERS. Holders of pledged or hypothecated notes or other evidence of indebtedness pledged by state banking associations shall have the right to collect and enforce payment, and to renew or extend the time of payment thereof, (if no endorser, guarantor or joint maker be, by reason of such renewal, released thereby,) and provided that such extension is for a period of not longer than fifteen months, and to accept from makers of such pledged or hypothecated notes and other evidences of indebtedness, security or additional security for the payment thereof, and upon payment in full by any maker to give and execute discharges and releases of instruments and securities, and shall have the power to sell, assign and transfer any note with the security therefor so pledged, upon payment of the full amount due thereon from the maker. The pledgee shall be entitled to be reimbursed out of the pledged assets, or the proceeds of the sale thereof, for his reasonable and necessary expenses incurred and expended in collecting, renewing, securing and otherwise protecting the assets pledged or hypothecated to him.

(g) PLEDGE. FORECLOSURE. CLOSED BANKS.

(1) Other than provided by subdivision (2) hereof no pledge contracts authorized hereby, shall be foreclosed except by an action in equity, brought in the district court of the county in which the pledgor association is located, and the receiver of any such banking association shall have the right to enjoin any foreclosure under subdivision (2) of this section, of any such pledge contracts, and to require such foreclosure to be by action in equity, where there is a defense or counterclaim to the debt secured, or the pledge contract.

(2) In case of default by the pledgor association, in the hands of a receiver, after demand for and neglect of payment, the pledgee shall have the right in lieu of foreclosure by the action in equity provided in subdivision (1) hereof to apply to a judge of the district court for the county within which the closed bank is situated for an order authorizing the foreclosure and sale of the pledge. Fifteen days notice of such application shall be given by personal service or registered mail to the State Examiner and to the receiver of the closed pledgor association.

The State Examiner, or receiver, or any of the depositors or other creditors of such closed bank may contest the granting of such order. Such order shall not be granted unless it appear by competent evidence that all reasonable efforts for the collection of the pledged paper have been made, and that there is no reasonable probability of further collection thereof within a reasonable period, and at reasonable expense, nor unless it shall appear that it is to the best interest of the pledgee, the said closed bank or its successor, or receiver, and the depositors and creditors thereof that such foreclosure and sale shall be had. The order for foreclosure and sale shall direct the sheriff of the county to make the sale, and the notice to be given thereof, and the newspaper wherein such notice shall be published, which notice shall not be less than fifteen days, and shall be served personally or by registered mail upon the State Examiner, and the receiver, and by publication for at least two successive weeks prior to the sale. All sales shall be made at the front door of the court house of the county within which said pledgor association is situated, beginning at the hour of two o'clock in the afternoon of the day specified, separately, article by article, for cash, to the highest bidder. Any amount received from said sale over and above the amount of the debt secured, plus costs and expenses of said sale allowed by law, shall be paid to the receiver, upon confirmation of the sale. Within five days after the sale the sheriff shall report the same in detail to the clerk of the district court, and file a copy thereof with the State Examiner and the receiver. The pledgee may purchase at such sale, and upon confirmation the amount of such bid, less the costs and expenses allowed by law, shall be credited upon the debt secured.

(h) REDEMPTION. The possession of the property sold and of the proceeds thereof, shall be retained by the sheriff unless the court otherwise directs, until the expiration of the redemption period herein prescribed, whereupon, and upon the confirmation of the sale the same shall be delivered to the persons entitled thereto. At any time within fifteen days after the sale the receiver may give notice to the sheriff of his intention to redeem therefrom and shall have the full period of five days thereafter to redeem by paying to the sheriff the amount paid by the purchaser; such redemption may be made of any or all of the articles sold. Redemptions may also be made by depositors or other creditors within ten days after such sale by depositing with the sheriff the amount paid by the purchaser, and by serving notice of such redemption upon the receiver and the sheriff, which said notice shall state the amount which such redemptioner will credit upon his debt for the privilege of redeeming from the purchaser. Notice of redemption may be given by more than one creditor for any one note or other article, and the creditor offering the largest credit upon his debt shall be awarded the right of redemption. Provided, however, that the receiver's right of redemption shall be superior to all other redemption rights. A redemption

vests in the redemptioner or receiver the title to said note or other articles upon confirmation of the sale as provided herein. Report of the sale and of the redemptions thereunder shall be made to the court by the sheriff within thirty days after the sale, and the court may order hearing thereon, with such notice as it may deem proper, not exceeding twenty days and upon such hearing shall have power, either to confirm or set aside the sale, or to order a new sale, or to direct such other proceedings as may seem to the best interests of the pledgee, the banking association, its successor, receiver, its depositors and creditors, and thereupon all documents arising from proceedings hereunder shall be filed with the clerk of the district court. Under the confirmation of the sale, out of the proceeds thereof the pledgee shall be reimbursed for the costs and disbursements paid and incurred in connection therewith, including a reasonable attorney's fee, not exceeding fifty dollars, to be allowed by the court in the order of confirmation; sheriff shall receive the same fees and commissions allowed him in the foreclosure of chattel mortgages, not exceeding fifteen dollars; the remainder of such proceeds shall be applied upon the debt secured, upon which debt interest shall be computed to the date of such payment, and any residue shall be paid to the receiver. During the period of foreclosure and redemption any debtor may pay upon his debt to the person having custody of such pledged collateral, which person is hereby authorized to receipt to the person paying, and upon full payment to release and discharge such debt and surrender the evidence thereof.

(i) VIOLATIONS. FELONY. ACCESSORY. Any officer, director, agent or employee of any state banking association who shall borrow money for, or on behalf of, or in the name of any such state banking association, or who shall obligate any such state banking association upon re-discounts, or who shall pledge or hypothecate any of the assets of such state banking association in violation of the provisions of this Section, and any person who shall counsel, aid or abet, or conspire with, or be accessory thereto, shall be guilty of a felony.

§ 35. LOAN. LIMIT TO ONE CONCERN.] The total liability to any state banking association of any person, corporation, company or firm, including in the liabilities of the firm the liabilities of the several members thereof for money borrowed and paper of the same parties as makers thereof purchased, shall not at any time exceed ten per cent of the unimpaired capital and surplus of such association, provided, however, that with the consent and approval of the State Examiner, such liability may be increased to an amount not exceeding fifteen per cent of such capital and surplus, and provided further, that for the purpose of this section the head of a family and all dependent members thereof shall be regarded as one person and the total liability of the members of such family shall be so limited; but the discount of bills of exchange drawn in good faith

against actual existing values, or loans secured by bills of lading upon produce in transit, or loans secured by bonded warehouse receipts or elevator storage tickets covering produce actually in store shall not be considered as money borrowed, providing that all paper relating to such transactions be made payable to, and such paper and security therefor be and remain in the possession and control of, such association until the advance or debt be paid, and such association may discount commercial or business paper actually owned by the person negotiating same without it being deemed an addition to the loan to said negotiator; provided however, that any loan made prior to the taking effect of this Act, which was not excessive when made, and any renewal of such loan for the same or a lesser amount, shall not be deemed contrary to the provisions of this section.

§ 36. LOANS. CERTAIN PERSONS. CONDITIONS. RESTRICTIONS. PENALTY.] No director, officer or employee of any state banking association of this state, nor the State Examiner, his deputies or any employee of such State Examiner's department, shall be permitted to borrow any of the funds of any state banking association, upon his own note or obligation, whether secured or unsecured, without first obtaining the approval of a majority of the board of directors of said banking association, excluding from such majority any directors whose application is to be acted upon; and no action, upon any loan herein provided for, shall be taken by the board in the presence of the applicant; and provided further, that no loan to a director or officer in excess of one thousand (\$1000.00) dollars shall be made without first obtaining the written consent of the State Examiner. Every loan, provided for herein, shall be upon like and equal security required of other borrowers and be in strict conformity with the association's rules and regulations. No director, officer, or employee of a bank shall sell to such bank directly or indirectly any mortgage, bond, note, stock or other property whatsoever without first obtaining the written approval of the board of directors, and where the amount of any such to be so sold exceeds the amount of one thousand (\$1000.00) dollars the written approval of the State Examiner also; and the action of the board of directors in connection with loans and discounts to be by it so approved, and the written approval of the State Examiner where such is necessary as herein provided, shall be made a matter of permanent record in the minute book of said banking association. Provided, further, that any shareholder, officer, or director of any banking association who shall knowingly violate the provisions of this Act shall be held liable in his person (personal) and individual capacity for all loss or damage which the association or any person shall sustain in consequence thereof and be deemed guilty of a misdemeanor.

§ 37. UNLAWFUL LOANS. PENALTY. MISDEMEANOR.] Whenever a state banking association shall allow any person, co-partnership or corporation to become indebted to it, directly or indirectly, in excess of the amount exclusive of interest permitted by

the laws of this state, the officer, director or employe thereof wilfully permitting or approving such loan shall be guilty of a misdemeanor and in addition thereto shall be personally liable to the association for the amount of such loan in excess of the statutory limit.

§ 38. UNAUTHORIZED LOANS NOT INVALID.] Nothing in the last section shall render any loan made by the directors of any such corporation in violation thereof, invalid.

§ 39. INTEREST ON LOANS. RATE OF.] Such association may demand and receive for loans on personal security, or for notes, bills or other evidences of debt, discounted, such rate of interest as may be agreed upon, not exceeding the amount authorized by law to be contracted for, and it shall be lawful to receive such interest according to the ordinary usage of banking associations and for not more than one year in advance.

§ 40. DEPOSITS. INTEREST ON. RATE.] No state banking association organized and existing under this Act shall pay interest on deposits, directly or indirectly, at a greater rate than four per cent per annum, unless authorized by the State Banking Board to pay a greater rate, which in no case shall exceed six per cent per annum; and said State Banking Board is hereby authorized and empowered to grant permission to pay such higher rate; provided, that the rate so granted shall be uniform within any county.

Any officer, director or employee of such association violating the provisions of this Section, directly or indirectly, shall be deemed guilty of a misdemeanor.

§ 41. DEPOSITS, UNLAWFUL TO APPROPRIATE, LIABILITY FOR.]

(a) It shall be unlawful for any banking association, with which money has been deposited, to charge against the deposit any claim of such banking association or any other person, or to appropriate the same to the payment of any debt to such banking association or any other person, without legal process or without the consent of the depositor.

(b) Any banking association which shall so charge any claim against a deposit or in any way appropriate the same to the payment of a debt of the depositor, in violation of the terms hereof, shall be liable to the party aggrieved for any damages caused thereby to be recovered in a civil action.

§ 42. DEPOSITS BY EXECUTORS, MINORS, ETC.] Deposits made by a person as executor, administrator or guardian, or in any other official position, with any banking association, shall be payable to him as such officer, or if personally made by a minor, shall be paid to him, although he has no guardian, or if he has a guardian, it shall not be necessary to obtain his consent to such payment, but a check, receipt of acquittance, signed by such minor therefor shall

be valid and binding. If made by any corporation, association or society, payment shall be made to any person authorized by its board of directors or trustees to receive the same.

§ 43. DEPOSITS IN TRUST; TO WHOM PAID.] Whenever any deposits shall be made with any banking association by any person in trust for another and no other or further notice of the existence and terms of a legal and valid trust shall have been given in writing to the bank in the event of the death of the trustee, the same, or any part thereof, together with the dividends or interest thereon, may be paid to the person for whom said deposit was made.

§ 44. DEPOSITS IN TWO NAMES: TO WHOM PAID.] When a deposit has been made or shall hereafter be made with any banking association, transacting business in this state, in the name of two persons, payable to either, or payable to either or the survivor, such deposit, or any part thereof, or any interest or dividend thereon, may be paid to either of said persons, whether the other be living or not; and the receipt or acquittance of the person so paid shall be a valid and sufficient release and discharge to such banking association, for any payment so made.

§ 45. OVERDRAFTS. PENALTY.] Any bank officer or employee who shall pay out the funds of any bank upon the check, order or draft of any individual, firm, corporation or association, which has not on deposit with such bank a sum equal to such check, order or draft, shall be personally liable to such bank for the amount so paid.

§ 46. OVERDRAFT, BANK OFFICER, EMPLOYEE.] Every officer, agent, teller, clerk, or servant of any bank, banking association or savings bank, who knowingly overdraws his account with such bank, and thereby wrongfully obtains money, notes or funds of such bank, is guilty of a misdemeanor.

§ 47. INSOLVENT BANK OR OFFICER RECEIVING DEPOSIT. FELONY.] No banking association shall accept or receive on deposit, with or without interest, any moneys, bank bills or notes, or United States notes or United States treasury notes or currency or other notes, bills or drafts circulating as money or currency, when such banking association is insolvent; and if any such banking association shall receive or accept on deposit any such deposits as aforesaid when insolvent, any officer, director, cashier, manager, member, party or managing party thereof, knowing of such insolvency, who shall knowingly receive or accept, be accessory or permit or connive at the receiving or accepting on deposit therein or thereby any such deposit as aforesaid, shall be guilty of a felony.

§ 48. SECURED SAVINGS DEPOSITS.]

(a) ESTABLISHED. LIMIT OF AMOUNT. INTEREST. Any banking association may establish a class of deposits to be known as



"Secured Savings Deposits," which shall not exceed in amount for any one depositor the sum of five hundred dollars. Interest thereon shall not be promised or paid, either directly or indirectly, to such depositor in excess of two and one-half per cent per annum, but the same may be compounded quarterly or semi-annually.

Such banks shall maintain and keep as cash reserve an amount which shall equal ten per cent of its total Secured Savings Deposits, four-fifths of which amount shall, as nearly as practicable, consist of balances due from reserve agents to be approved by the State Banking Board, and carried in the name of such bank in an account entitled "Secured Savings Account of.....Bank of....., N. Dak.," and as nearly as practicable, not exceeding one-fifth of such reserve provided for herein may be kept in another department of such bank.

(b) INVESTMENTS RESTRICTED. Any bank having Secured Savings Deposits shall invest the deposits received in such department only in bonds or certificates of indebtedness of the United States, the State of North Dakota, any county or school district within the state, or such other political subdivisions of the state, the bonds and certificates of indebtedness of which may, from time to time, be approved for investment of such deposits by the State Banking Board.

(c) RESERVE AND INVESTMENTS TO BE KEPT SEPARATE. PLEDGING OR LOANING OF ASSETS PROHIBITED. The reserve, bonds and investments belonging to the Secured Savings Department of any such bank shall be kept separate and apart from the other reserves, bonds, investments, loans and discounts of the bank, and shall be applicable only to the repayment of such Secured Savings Deposits, and shall not be pledged, loaned or hypothecated as security for loans of such bank or otherwise, excepting as permitted by subdivision (a).

(d) PROTECTION REMOVED WHERE HIGHER INTEREST RATE PAID TO DEPOSITORS. The protection provided for depositors hereunder shall not apply to a depositor who accepts, either directly or indirectly or by whatever device, interest or compensation upon such deposit of a higher rate than provided herein, but he shall in such event be treated and considered as a common creditor of such bank.

(e) FIRST LIEN ON BANK'S GENERAL ASSETS. EXCEPTION. The amount of the cash reserve standing to the credit of the Secured Savings Department in any such bank shall be, and is hereby declared to be, secured by a first and paramount lien upon the assets of such bank in favor of such Secured Savings Depositors, save and except funds deposited in such institution belonging to the estate of any insolvent bank, deposited therein by the receiver or other person officially in charge, which shall have preference over all other claims. In the event of the closing of any bank having Secured Savings Deposits, if it shall appear that such deposits or investments have been wrongfully mingled with the other assets of such bank,

or, except as otherwise hereinbefore provided, that such reserves and investments have not been maintained separately, but have been unlawfully co-mingled, such Secured Savings Deposits shall be deemed to be especially secured by a first and paramount lien upon all the other assets of such bank as herein provided for.

(f) DEPOSITS. NOTICE OF WITHDRAWAL. RULE AND REGULATIONS TO RECEIVE APPROVAL OF STATE BANKING BOARD. Deposits received under the provisions hereof shall be paid to the order of the depositor or his representative and shall be kept, maintained and paid out, with interest as herein provided for, under such rules and regulations as the board of directors from time to time prescribe, not inconsistent with the provisions hereof and of the banking laws of the state, and shall be effective upon approval of the State Banking Board, and which shall be printed in a pass book furnished the depositor, and also conspicuously posted in the lobby of the bank in some place accessible and visible to all, and no changes which may at any time be made in such rules and regulations affecting the rights of depositors acquired previously thereto in respect to the deposits or interest thereon shall be operative until approved by the State Banking Board nor until sixty days after the posting of such change; provided, however, that in order to prevent loss to the depositor, by enforced sale of securities below their real value, it shall be lawful for the directors in their discretion, to require notice of one week before the withdrawal of any part of any Secured Savings Deposit of more than twenty dollars and not exceeding one hundred dollars; of two weeks before the withdrawal of any part of any deposit of more than one hundred dollars and not exceeding two hundred fifty dollars; of three weeks before the withdrawal of any part of any deposit of more than two hundred fifty dollars and not exceeding five hundred dollars, and in cases where the deposit has been made on a certificate for a definite time and the depositor fails to withdraw the same within ten days after such definite time, then notice of withdrawal may be required as prescribed above, and provided, further, that the directors of any such bank may, with the written consent of the State Banking Board, and shall, at its direction, make any changes deemed necessary in regard to the notices heretofore required to be given by the depositors for the withdrawal of their deposits, by extending the time that notice shall be given by any depositor for the withdrawal of all such deposits, to a period of time not exceeding three months, and provided, further, that the directors may limit the aggregate amount that any depositor may deposit to such sum as they deem expedient to receive, not exceeding the amount limited under subdivision (a), and may in their discretion refuse to receive any deposit, and may also, at any time, return all or any part of any deposit and the accrued interest thereon to any depositor without notice.

(g) **SEPARATE BOOKS. REPORTS TO STATE EXAMINER.** Every banking association which shall establish and maintain a Secured Savings Department, shall be required to keep separate books and records of the deposits made therein, and of the investments made and belonging to such department, and shall be required to make reports of the condition of such department to the State Examiner on the last business day of each month, and also at the time of making report of the condition of the general business of the bank, and which last mentioned report shall show separately therein the amount of such Secured Savings Deposits, investments and reserves, and upon forms prescribed and approved by the State Banking Board, and such Board may require in the published statement of condition of such bank that the same shall be set forth as separate items in such published report.

(h) **SAVINGS DEPARTMENT NOT AFFECTED.** This section shall not be construed to limit or interfere with the establishing or conducting of a general savings department in state banks and trust companies.

§ 49. SAVINGS BANKS.]

(a) **ORGANIZATION.** Any number of persons, not less than five, at least three of whom must be residents of this state, may associate themselves together for the purpose of organizing and operating a savings bank, by complying with the provisions of Sections 8, 9 and 10 of this act and thereupon shall be vested with the powers provided for in Sections 13, 14 and 15 of this act.

(b) **CAPITAL STOCK.** The capital of every such savings bank shall be divided into shares of the par value of one hundred dollars (\$100.00) each, and shall not be less than twenty-five thousand dollars (\$25,000.00) in cities, towns or villages having a population of less than five thousand, not less than fifty thousand dollars (\$50,000.00) in cities having a population of five thousand or more, and the capital stock of every association incorporated hereunder, shall be paid up in full before such corporation shall be authorized to commence business.

(c) **DEPOSITS.** Savings banks organized hereunder may receive on deposit money equal to twenty times the aggregate amount of its paid up capital and surplus, and no greater amount of deposits shall be received without a corresponding increase in the aggregate paid up capital and surplus. Deposits so received shall be paid to the order of such depositor or his representative, with such interest and under such regulations as the board of directors from time to time prescribe, not inconsistent with the provisions of this section, which rules and regulations shall be printed in a pass book furnished the depositor, and also conspicuously exposed in the business office of the bank in some place accessible and visible to all and no alterations which may at any time be made in such rules and regulations

affecting the right of depositors acquired previously thereto in respect to the deposits or interest thereon shall be operative until sixty days after the posting of such alteration; provided, however, that in order to prevent loss to the depositor, by enforced sale of securities below their real value, it shall be lawful for the directors in their discretion, to require notice of one week before the withdrawal of any part of any savings deposits of more than ten dollars and not exceeding one hundred dollars; of two weeks before the withdrawal of any part of any deposit of more than one hundred dollars and not exceeding five hundred dollars; of three weeks before the withdrawal of any part of any deposit of more than five hundred dollars and not exceeding one thousand dollars; of thirty days before the withdrawal of any part of any deposit of more than one thousand dollars and not exceeding two thousand dollars; of sixty days before the withdrawal of any part of any deposit of more than two thousand dollars and in case where the deposit has been made on certificate for a definite time, and the depositor fails to withdraw the same within thirty days after such definite time, then notice for withdrawal may be required as prescribed above; and provided, further, that the directors of such savings bank may, with the written consent of the State Banking Board, and shall at its direction, make any changes deemed necessary in regard to the notices heretofore required to be given by the depositors for the withdrawal of their deposits, by extending the time that notice shall be given by any depositor for the withdrawal of all deposits, to any period of time not exceeding six months; and provided, further, that the directors may limit the aggregate amount that any depositor may deposit to such sum as they deem it expedient to receive, and may in their discretion refuse to receive any deposit, and may also, at any time, return all or any part of any deposit and the accrued interest thereon to any depositor without notice.

(d) INVESTMENT OF FUNDS. A savings bank incorporated hereunder shall invest its deposits as follows:

First. In bonds of the United States.

Second. In bonds or evidences of debt of this state or in the bonds of other states in the United States.

Third. In bonds or warrants of any county in this state, or in the bonds or warrants of any city in this state, or in the bonds or warrants of any village, township, or school district in this state, issued pursuant to the authority of law, but not exceeding thirty per cent of the assets of such savings bank shall be invested in such bonds or warrants.

Fourth. In notes or bonds secured by mortgage or deed of trust upon unencumbered improved real estate in this state, which investment shall not exceed forty per cent of the actual cash value of the property mortgaged, provided fire and tornado insurance policies are maintained and deposited as collateral to such mortgage.

Fifth. In the mortgage bonds of any railroad corporation, incorporated under the laws of any state of the United States, provided that during each of the ten fiscal years of such railroad corporation's existence next preceding the date of such investment;

1. Such railroad corporation shall have paid the matured principal and interest of all its mortgage indebtedness.

2. Such railroad shall have paid in dividends in cash to its stockholders, an amount of at least four per cent per annum upon all its outstanding stock of every class.

Sixth. In listed first lien, public utility, industrial or foreign bonds, but not more than ten per cent of the capital and surplus shall be invested in any one issue thereof; and not more than twenty-five per cent of the total deposits shall be invested in bonds of all of the above classes, in this section.

Seventh. In promissory notes, not to exceed forty per cent of the total deposits, due not more than one year from the date of the loan; when securities as permitted in above sections, are pledged as collateral to a loan, there may be loaned thereon an amount not in excess of eighty per cent of the value thereof. In no event shall more than fifteen per cent of the capital and surplus of a savings bank be loaned to any one person, firm or corporation.

(e) DIVIDENDS. No dividend shall be declared or paid to any stockholder save out of the undivided profits on hand after paying or setting apart a sum sufficient for the payment of:

First. All expense for operating the bank.

Second. All interest due and accrued to depositors according to the rate fixed therefor in the by-laws.

Third. The taxes for the current year.

Fourth. Fifty per cent of the net profits to the surplus fund until such fund amounts to one hundred per cent of the paid-in capital stock.

(f) RESERVE. Each savings bank shall at all times have on hand in available funds an amount which shall equal:

(1) twenty per cent of its total deposits subject to check, or on demand and amounts due to other banks.

(2) ten per cent of its total deposits on time certificate; and,

(3) five per cent of its total savings deposits subject to notice as herein authorized.

Three-fifths of these amounts may consist of balances due the savings bank from such solvent state or national banks or trust companies as shall have been approved by the State Banking Board, but the remaining two-fifths of such reserve shall consist of actual cash on hand; cash items shall not be included in computing reserve,

and no savings bank shall carry as cash or cash items any paper or other matter except legitimate bank exchange, which shall be cleared on the same or next successive business day. Whenever the available funds within the meaning of this section shall be below the percentage of its deposits stated herein, such savings bank shall not increase its liabilities by taking any new loans or make any dividend of its profits until the required proportion between the aggregate amount of the deposits and its lawful money reserve has been restored, and the said Banking Board shall notify any bank whose reserve shall be below the amount required, to make good such reserve, and if such savings bank shall fail to do so for a period of thirty days after such notice, the State Banking Board may impose a penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), which penalty shall be collected in the same manner as other penalties prescribed in this act.

(g) SAVINGS DEPOSITS, WHO MAY TAKE. MISDEMEANOR. Every corporation organized under the provisions of this section shall use the words "Savings Bank" as a part of its corporate name, and it shall not be the same name as that of any other bank heretofore or hereafter incorporated in this state, and no corporation not organized under the provisions of this section shall use the word "Savings" as a part of its title, and no corporation, except national banking corporations, state banks and annuity, safe deposit and trust companies organized under the laws of this state, shall receive savings deposits without first complying with and organizing under the provisions of this section. Any person violating the provisions of this subdivision shall be guilty of a misdemeanor.

(h) LIMIT OF INTEREST. All savings accounts, upon which no deposits or drafts have been made for the period of six years in succession, and the whereabouts of the depositor be not known to any officer of the bank, shall be so far closed that neither the sum deposited nor the interest which shall have accrued thereon shall be entitled to any interest after the expiration of six years from the date of the last deposit or draft. This provision, however, shall not apply to endowments nor to trust estates nor to other cases where special provision is made therefor at the time of the deposit thereof.

(i) OTHER PROVISIONS APPLICABLE. Except as this section specifically extends, enlarges or restricts its rights, powers, duties and obligations, any savings bank organized hereunder or now existing shall be subject to and governed by all the other provisions of this act.

§ 50. BANKS INSOLVENT. WHEN.] A bank shall be deemed insolvent:

(a) When the actual cash market value of its assets is insufficient to pay its liabilities;

(b) When it is unable to meet the demands of its creditors in the usual and customary manner;

(c) When it shall fail to make good its reserve as required by law;

(d) When it shall fail to comply with any lawful order of the State Banking Board within any time specified therein.

Its property shall not be subject to attachment or levy, nor shall a receiver be appointed during such reasonable time as the State Examiner may require for examination. After such examination if the State Examiner shall find such bank to be insolvent, he shall take possession of books, records, and other property of such bank, and certify the fact of such insolvency to the Attorney General as hereinafter provided. Whenever, after such examination and before the appointment of a receiver, said Examiner shall find the bank in such condition that all creditors aside from stockholders, can be paid in full from its assets, he may relinquish possession of its property to its proper officers; provided, however, that the bank shall pay into the state treasury a fee of ten dollars per day and the hotel and traveling expenses of the State Examiner or deputy state examiner, who shall have been in charge of the bank during this period, and such bank may, with the consent of the State Examiner, resume business upon such conditions as may be approved by him. Upon taking possession of the property and business of such bank, the State Examiner is authorized to collect moneys due to such bank and to do such other acts as are necessary to conserve its assets and business.

§ 51. ADMINISTRATION OF INSOLVENT BANKS.]

(a) SUPREME COURT, JURISDICTION OF. The Supreme Court of the State of North Dakota is hereby given, and is requested to exercise, original jurisdiction of the insolvency proceedings to liquidate and wind up the affairs of all insolvent State Banking Associations within the state.

(b) INSOLVENT BANKS. CERTIFIED TO ATTORNEY GENERAL. Whenever any bank shall be closed as insolvent, the State Examiner shall certify such fact to the Attorney General together with a concise statement, showing the time of insolvency, the name of the receiver in charge, and such other information as the State Examiner believes will be of importance to the Attorney General.

(c) PROCEEDINGS FOR WINDING UP. Immediately upon receiving such certificate the Attorney General shall institute a proceeding in the Supreme Court entitled in the name of the State of North Dakota, for itself, and on behalf of all creditors of such bank, as plaintiffs, against said insolvent bank as defendant, for the purpose of declaring it insolvent and winding up its affairs as an insolvent banking association. Such proceedings shall be brought by the filing

in the office of the Clerk of the Supreme Court of a complaint reciting briefly the fact as to the insolvency of such bank, and the name of the receiver or other officer in charge.

Upon the filing of such complaint the Attorney General shall issue a summons in the usual form of summons issued in actions in the district court of the state, and containing an additional statement to the effect that a petition charging the bank in question with being insolvent is on file in the office of the Clerk of the Supreme Court, and that unless answer is made thereto within fifteen days from such service such complaint will be taken as confessed. Such summons, however, as prepared for service on individual banks need only name as a defendant, the particular bank upon which service thereof is to be made, and such service may be made upon any officer of such bank.

Service of such summons may be made in the same manner as the service of summons in ordinary civil actions is made, and the sheriff of the county in which the bank to be served is located shall upon request of the Attorney General immediately make service, or cause service thereof to be made, as in ordinary actions, but he shall not be entitled to collect any fees or expenses for making such service and he shall make return thereof when served to the Attorney General.

(d) ANSWER. Upon the service of the summons as aforesaid the defendant bank shall have fifteen days within which to serve and file an answer denying insolvency, or any other material fact stated in the petition and unless within such fifteen days such answer is served and filed the insolvency of such defendant shall be deemed confessed.

(e) COURT COMMISSIONER; QUALIFICATIONS; JURISDICTION; REVIEW. The Supreme Court shall appoint a Court Commissioner who shall have all the qualifications prescribed by law for a Judge of the Supreme Court to whom it may refer any matters committed to the jurisdiction of the Court, as herein provided, who shall act for and on behalf of the Supreme Court in hearing evidence, finding facts and making orders in any matter arising in connection with the action or actions instituted in such court under the provisions hereof.

Such Commissioner may sit for hearing and determination of any question of law or fact that may arise in such action or actions at any place within the state, and any such hearing may be brought on upon reasonable notice given by the Commissioner to the party in interest of the time and place of such hearing, and in the exercise of the jurisdiction conferred upon him, said Commissioner may permit matters to be brought before him either upon ordinary notice served upon the parties or by order to show cause, according to the practice of the district courts.



Any decision of the Commissioner may be reviewed by the Supreme Court on the motion of any party aggrieved at such times and under such rules as the Court may prescribe, and unless objected to by motion to review as herein provided, the Court may deem the decision of the Commissioner correct and without notice or application affirm the same.

Any party desiring to have a review of the decision of the Commissioner by the Supreme Court must within three days after the making of the same, if he is present personally or by counsel, or within three days after written notice thereof, if not present, file with the Commissioner a brief written statement of the grounds of his objection and containing the post office address of the party or his attorney upon which notice of hearing shall be served. Such statement must be filed by the Commissioner with the Clerk of the Supreme Court and notice of the hearing of such notice for review shall be given to the complaining party by letter addressed to him, or his attorney at the place named in such statement. The time of giving notice of such hearing to be fixed by rule or order of the Supreme Court.

(f) SALARY. CLERK HIRE. EXPENSES. OATH. Such Commissioner shall be paid out of the general funds of the state the same salary as is paid to Justices of the Supreme Court and may employ such clerical assistance as shall be allowed by the Court, and shall be reimbursed by the state for all his actual expenses incurred in connection with the performance of his duties to be passed upon by the state auditing board as other claims against the state. Such Commissioner shall take the constitutional oath to perform his duties according to the Constitution of the United States and the State of North Dakota.

(g) REGULATIONS. The Supreme Court shall make rules and regulations from time to time governing the reference of matters to the Commissioner and the exercise of his jurisdiction and powers and the manner and method of reviewing his decision.

(h) RECEIVER. APPOINTMENT OF. Upon the filing of the complaint aforesaid the Supreme Court shall appoint a receiver, or two joint receivers, of all said insolvent banks, which receiver shall have all the powers and authority ordinarily possessed and exercised by receivers of insolvent corporations or prescribed by statute and the Court shall have all the power and authority with regard to the administration and closing of the affairs of such banks as are ordinarily possessed and exercised by courts of equity over the affairs of insolvent corporations. If upon a hearing on an issue raised by answer to the complaint, it shall be established that any bank proceeded against is not insolvent, then the receiver shall be deemed to have been a temporary receiver, and shall account and be discharged accordingly as to such bank, in all other respects the receiver shall be deemed to be a permanent receiver.

The receiver so appointed by the Court shall supersede and supplant any receiver theretofore appointed by the banking department, or by any other court, or any examiner or officer of the banking department that may be in charge of any such bank, but until the receiver appointed as herein provided shall take possession of any such bank the receiver, or other officer already in charge, shall continue, and it shall be his duty to protect, conserve and administer its affairs to the best of his ability, and he shall remain liable under his bond for all his acts committed prior to being finally relieved of his trust. The Court shall also have power to fill any vacancy in the office of receiver occasioned by death or other disqualification.

(i) **RECEIVER; APPLICATION TO COMMISSIONER FOR INSTRUCTIONS.** The receiver appointed hereunder shall from time to time apply to the Commissioner for guidance and instructions and for the purpose of obtaining orders and directions with reference to the administration of the affairs or the disposition of the property of any of the banks under his control, as receiver, in the same way and as far as may be practicable under the same course of procedure that receivers appointed by district courts apply to such courts, and the receiver or any other parties aggrieved by any determination of the Commissioner may apply to the Court for a review thereof, as hereinbefore provided for.

(j) **CLAIMS. LIMITATION OF ACTION ON.** When any bank shall hereafter become insolvent and go into the hands of a receiver, such receiver shall give notice thereof by registered mail to every creditor whose address appears on the records of the bank, or shall be known to the receiver, within sixty days after his appointment. Any claim against such bank not presented to the receiver within two and one-half years after his taking possession thereof shall be barred and cannot thereafter be presented or an action maintained thereon. In the case of any bank that is heretofore closed and gone into the hands of a receiver where notice has already been mailed substantially as provided herein, whether within sixty days from the time of the taking possession by the receiver or not, and in which any claim has not been filed, it shall be barred and cannot be presented or any action maintained thereon after two and one-half years from the date of the mailing of such notice. Provided, however, any person bringing action on a claim against any such receiver must allege in his complaint and prove that the action is not barred under the foregoing provisions.

(k) **RECEIVER TO FURNISH FINANCIAL STATEMENT. CLOSED BANKS.** When any bank shall hereafter become insolvent and pass into the hands of a receiver, such receiver shall, within sixty days after the closing of such bank, mail to each stockholder, depositor and creditor of such bank whose name and address appears on the records of the closed bank, a statement showing the assets and liabilities of such bank as of the date of its closing. It shall be the

duty of said receiver annually thereafter, to mail to each stockholder, depositor and creditor of such closed bank, a statement of the affairs of the receivership, which statement shall show the amounts collected since the last statement was rendered, the disposition made of the funds collected and the amount of assets on hand at the time of rendering such annual statement.

(l) **EXPENSE OF RECEIVERSHIP.** Whenever the affairs of any bank under the receivership aforesaid are ready to be closed, the Court shall fix the amount of the expense of the receivership properly chargeable to such bank.

(m) **PROCEDURE.** So far as practicable, except as herein otherwise provided, and except as may be otherwise provided by the Court, the ordinary rules of procedure applicable to like actions in the district court shall govern the proceedings herein provided for; but the Court may from time to time prescribe such rules of procedure as it shall from time to time find best adapted to the furtherance of the general purpose of expeditiously and economically winding up the affairs of insolvent banks.

(n) **COMMISSIONER; POWERS OF.** The Commissioner appointed hereunder shall have power and authority to issue subpoenas for witnesses any place within the state, and to administer oaths and to punish for contempt, to the same extent as a judge of the district court, subject to a review of his decision by the Supreme Court, as in case of other decisions. At any time when district court is not in session in any county, in which the Commissioner is holding a hearing, he shall have a right to take and use the court room of the district court, and he may call upon the clerk of such district court to act as his clerk, in issuing subpoenas, and may call upon the sheriff of the county to act as his court officer, and such officers shall perform such service without compensation.

(o) **PLACE OF HEARING.** The Commissioner shall, as far as practicable, hold his hearings in the county in which the bank interested is located, and as far as practicable and with fair regard to the convenience and interest of all parties at the most accessible point within the county.

(p) **WITNESS FEES AND MILEAGE.** In all hearings before the Commissioner the parties procuring the attendance of witnesses shall be liable for their witness fees and mileage, as is allowed in district court, and the Commissioner may make such order with reference to the payment of costs by the different parties as shall be just.

(q) **JUDGMENTS; INTERLOCUTORY OR FINAL; TRANSCRIPT OF.** The Supreme Court may from time to time as occasion shall require enter interlocutory or final judgments affecting the rights of particular parties to the proceedings without affecting the rights of any other party, and any judgment so entered in the Supreme Court may be at the request of any interested party transcribed to the

district court of any county in the state where it shall be docketed by the clerk of court, and shall from the time of docketing be taken and considered as a judgment of such district court in all things the same as though originally entered, and it may be enforced as a judgment in such court.

(r) **TRANSFER TO DISTRICT COURT. RESIGNATION OF DISTRICT JUDGE. REVIEW OF ACTS OF.** In case the Supreme Court shall be of the opinion that its original jurisdiction does not extend to the controversy or controversies referred to herein, or if for any other reason the Supreme Court shall refrain from exercising its original jurisdiction with respect thereto, the proceeding shall not be dismissed, but all papers and files therein shall be transmitted to the Clerk of the District Court of Burleigh County, and that court shall be and is thereupon vested with full jurisdiction of such proceedings, and thereupon the Supreme Court, in the exercise of its supervisory jurisdiction shall designate some district judge to hear and try said controversy or controversies, and the judge so designated shall give precedence to such controversy or controversies over all other work and in the disposition thereof he shall be governed by the provisions hereof, and endeavor in every way to carry the same into effect. The District Judge so designated shall perform all of the duties herein required to be performed by the Court Commissioner, and in such case no Court Commissioner shall be appointed. In such case the acts of the District Court shall be subject to review by the Supreme Court in the same manner herein provided for review by the Supreme Court of the acts of the Court Commissioner. Provided that all acts of such District Court performed under the provisions hereof, including the appointment of a receiver, shall be subject to the supervisory control of the Supreme Court. In case of the designation of a District Judge as herein provided for, all his necessary traveling expenses incurred in carrying out the provisions hereof shall be paid out of the general fund of the state upon vouchers duly presented, as in other cases of the expenses of District Judges. In case of the designation of a District Judge as in this subdivision provided, all further insolvency proceedings hereinafter provided to be instituted in the Supreme Court, shall be instituted in the District Court of Burleigh County and conducted in like manner.

In case of the designation of a District Judge as in this subdivision provided for, the rules of procedure prescribed herein for the Court Commissioner shall govern the procedure before such District Judge, and the Supreme Court shall likewise make necessary rules governing the conduct of such proceeding or proceedings.

(s) **REOPENING WITHOUT RECEIVERSHIP.** Whenever any bank shall for any reason be suspended or closed, if twenty-five of the depositors therein shall notify the State Examiner that they desire to attempt to reorganize or otherwise reopen or consolidate such

bank with some other banking institution, a reasonable time shall be given by the State Examiner during which receivership proceedings will not be commenced; and thereupon the depositors must proceed immediately with the perfection of a plan and articles of agreement, outlining in general the proposed plan, which must be signed by deposit creditors representing eighty per cent of the amount of deposits in such bank, exclusive of deposits of public money secured by indemnity bond or otherwise, and also exclusive of deposits of less than twenty-five dollars each. All other unsecured depositors shall be held to be subject to and bound by the terms of such agreement to the same extent as though they had joined in the execution thereof, and in case of the restoration of said bank to solvency and the reopening thereof their claims shall be treated in all respects as if they had been parties to the making thereof. If at any time, in the opinion of the State Examiner, reasonable progress is not being made in the attempted reorganization the grant of time to depositors may be withdrawn and receivership proceedings immediately instituted.

When eighty per cent of the depositors, as aforesaid, have joined in such agreement the same shall be presented to the State Examiner, with a full report of what has been done in adjusting the affairs of the bank in anticipation of reopening; and the State Examiner may thereupon require any further or additional things to be done as in his opinion will be necessary to place the bank in position to open and function as a going concern. The State Examiner may then grant such reasonable time as seems necessary to place the bank in such position and when the requirements of the State Examiner have been complied with said bank shall reopen and become in all things a going bank, subject to all provisions of law and regulations of the Banking Department; provided, however, that if at any time, in the opinion of the State Examiner, the interests of the creditors of said bank are being jeopardized by delay he may immediately withdraw all grants of time and cause receivership proceedings to be instituted.

(t) REORGANIZATION AND OPENING OF BANKS. Any bank coming under the jurisdiction of the court as provided for herein, may be withdrawn from the control of the receiver hereinbefore provided for, and its reorganization and opening may be undertaken by its depositors in the manner following, to-wit:

Articles of agreement and a plan of reorganization in writing may be submitted to the State Examiner by deposit creditors. Such plan must, among other things, contain the names of three persons who may or may not be depositors, to put such reorganization into effect. There shall also be submitted with such articles of agreement and plan, the consent in writing of such proposed members of the

reorganization committee to act on such committee. The State Examiner shall thereupon present such articles of agreement and reorganization plan to the State Banking Board, which may in its discretion modify or amend the same and shall append thereto specifications and requirements to be met for such reorganization and reopening. Thereafter such articles of agreement and reorganization plan, together with the specifications and requirements as set forth by the State Banking Board shall be presented by the applicants to the deposit creditors of such bank for execution by each depositor in person or by his representative holding a power of attorney to act in the premises, sworn to before a Notary Public or other officer empowered to administer oaths, which power of attorney shall accompany such agreement and plan. When deposit creditors representing eighty per cent of the amount of deposits therein, exclusive of deposits of public money secured by indemnity bonds or otherwise, and exclusive of deposits of less than twenty-five dollars each, have executed said articles of agreement, and the other specifications and requirements fixed by the Banking Board as prerequisite to such reorganization have been complied with, notice thereof shall be given to said Court Commissioner or district judge, as the case may be, and all other unsecured depositors shall be held subject to such agreement and bound by the terms thereof to the same extent and effect as if they had joined in its execution, and in the event of restoring such bank to solvency, and the reopening of it for business, all depositors shall be bound to abide by the terms thereof.

Thereupon the court shall fix the time and place when such application for reorganization will be considered, which hearing shall be held in the town where such bank is located. At least ten days' notice of such hearing, containing a statement of the purpose, time and place thereof, must be given by the applicants by registered mail to the receiver of such bank, to the State Examiner, and to each deposit creditor shown of record on the books of the bank at the time of closing, and for the purpose hereof such records shall be by the receiver of such bank made available to the applicants upon demand. At such hearing, the State Examiner or deputy, the receiver of such bank or his representative and the organization committee selected by the depositors shall be present. If it shall appear to the court upon such hearing that the committee named in such agreement is prepared to put the plan into operation, and that it is in compliance with law, the application shall be granted, unless good reason to the contrary is shown by some objecting party; and when the State Examiner shall certify that he has examined its affairs and that it is in condition to open and proceed with business as a solvent bank within the banking statutes, an order shall thereupon be made by the court permitting such reorganization, the withdrawal of such bank from the receivership, and the reopening thereof, and directing the receiver, upon presentation of such order of the Court, to turn over to the said bank, or account for all of the assets and effects

thereof that have been taken possession of by him, deducting, however, the proper expenses of administration during the time the same has been in his charge, such expenses to be agreed upon by the said committee and the receiver, or in case of disagreement to be fixed by the Court. But the failure of the parties to so agree shall not delay the turning over of the assets other than those which the receiver claims to be entitled to by way of compensation, and the matter of the correctness of such claim shall be thereafter determined. Upon so delivering the assets and effects the receiver shall take the receipt of the said bank and the said committee jointly for the same and he shall thereupon be absolved from all future responsibility on account of the affairs of said bank, and the same shall thereupon become a going banking association, subject to all the rules of law and regulations applicable to other banking associations.

(u) LIQUIDATION BY DEPOSITORS. When any bank shall be closed and taken charge of by the receiver as provided for herein, or while proceedings are pending for taking charge thereof hereunder, articles of agreement and a plan for liquidation by a liquidating committee may be submitted to the State Examiner. Such plan must, among other things, contain the names of six persons who may or may not be depositors, from among whom, if the application is granted by the Court as hereinafter provided, the Court may select three to act as such liquidating committee. There shall also be submitted with such plan and articles of agreement and the consent in writing of all of such proposed members of the liquidating committee to act on such committee if selected by the Court. It shall be the duty of the State Examiner to act in an advisory capacity to the persons interested in the plan. He shall pass upon the feasibility and practicability of the same, and either approve or disapprove thereof. If he disapproves the plan, it shall be his duty to formulate and present in lieu thereof an agreement and plan which meets with his approval.

Such agreement and plan so approved by the State Examiner shall thereupon be by the applicants presented to the deposit creditors of such bank for execution by each depositor in person, or by his representative holding a power of attorney to act in the premises, sworn to before a Notary Public or other officer empowered to administer oaths, which power of attorney shall accompany such agreement and plan. When deposit creditors thereof, representing not less than eighty per cent of the amount of deposits of such bank exclusive of public money secured by indemnity bonds or otherwise, and also exclusive of deposits of less than twenty-five dollars each, have executed said articles of agreement and plan for liquidation, all other unsecured depositors shall be held subject to such agreement and all the terms thereof to the same extent and effect as if they had joined in its execution, and the same may be presented to the Court Commissioner or judge of the district court designated

by the Supreme Court as hereinbefore provided, together with an application to have the liquidation of the said bank withdrawn from the receivership and vested in a liquidation committee. Such Court Commissioner or district judge, as the case may be, shall thereupon make an order fixing a time and place for the hearing of such application, which hearing shall be held in the town where such bank is located. Ten days' notice of such hearing, containing a statement of the purpose, time and place thereof, must be given by the applicants by registered mail to the receiver of such bank, to the State Examiner, and to each deposit creditor shown of record on the books of the bank at the time of closing, and for the purpose hereof such records shall be by the receiver of such bank made available to the applicants upon demand.

Upon the hearing the Court shall advise itself fully in regard to the status of the existing receivership, the feasibility of the proposed plan, the competency of the proposed members of the liquidating committee and its several members to act in the proposed capacity, and it shall have the power to select three persons from the names submitted in such plan and articles of agreement to act as a liquidating committee, and to prescribe the terms and conditions upon which the liquidation of the affairs of such bank will be transferred from the receivership to such committee. It may also permit the applicants, with the consent of the State Examiner, to modify or amend the said proposed plan of liquidation. If no good reason is presented why the application as originally made or as amended should not be granted, the Court must make its order appointing three persons from among the names submitted with said plan, to act as joint receivers of said bank in the place and stead of the existing receiver, prescribe the amount of the bond, if any, which they should be required to give upon qualifying as receivers, and the manner of their reporting and accounting to the Court, directing the existing receiver to account to them and turn over all of the assets of the receivership, first deducting the proper expense and charges for administration of the receivership up to such time, the amount thereof to be agreed upon between the existing and the new receivers, or in case of disagreement to be settled by the Court; but the failure of the parties to so agree shall not delay the transfer of the assets and effects to the new receivers, except such thereof as are claimed by the old receiver as compensation, as aforesaid, and the correctness of such claim shall be subsequently determined by the Court.

Upon so accounting and surrendering the assets and effects to the said new receivers, the existing receiver shall take their receipt therefor, and he shall be thereupon discharged from all liability and responsibility in connection with the further liquidation of such bank, and the said new receivers shall be deemed to have assumed the same liability, responsibility and accountability to the Court as other receivers. Any vacancy in the office of such receivers so appointed



by the Court as hereinbefore provided, shall be filled by the remaining receivers with the approval of the Court, and in the event that all of said receivers shall vacate their office for any cause simultaneously, then the Court shall fill such vacancies.

(v) CONSTRUCTION OF ACT. The provisions of this section with reference to the withdrawal of banks from the receivership for the purpose of reorganization and opening, or for the purpose of liquidation, shall be deemed to be highly remedial in character and they contemplate the most expeditious disposal of such matters that is practicable, and shall be liberally construed to accomplish this purpose, and it shall be the duty of the Court and all other public officers having any connection therewith to give such matters preference over ordinary matters to the fullest extent that can be done without undue interference with other official and judicial business.

(w) TERMINATION. CUSTODY OF RECORDS AND ASSETS. When the affairs of any closed bank shall be wound up and the receiver discharged, all books, records, documents, and other property of such bank and any dividends unclaimed by the creditors of such bank shall be by such receiver delivered over to the State Examiner and his receipt taken therefor and filed with the clerk of the Court having jurisdiction of such receivership.

The State Examiner is hereby appointed custodian of all books, records, documents, and other property of such bank and of the dividends unclaimed by creditors upon the winding up of the receivership proceedings. Such custodian shall be vested with the title to any assets belonging to such bank and not distributed in such receivership, and he shall have full power and authority to \*(to convert such assets into cash. He shall also have authority to) execute all deeds, satisfactions, assignments or other documents for the purpose of transferring such assets or for the purpose of clearing the records and quieting title to property in which said bank had an apparent interest. Any money collected by such custodian, over and above his necessary expenses, shall be distributed in the same manner as though the receivership had not been terminated. Any dividends remaining unclaimed for a period of two years from the termination of the receivership or other recoveries, shall be by said custodian covered into the state treasury.

(x) APPROPRIATION. There is hereby appropriated out of the general funds of the state the sum of one thousand dollars per year or so much thereof as may be necessary to pay the traveling and other expenses necessarily incident to the performance of the duties of such Court Commissioner, or of the district judge who may be designated by the Supreme Court, in carrying out the provisions hereof.

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\*Words shown in parenthesis appear in original bill but evidently were omitted inadvertently from enrolled law. They have been inserted to assist in showing probable intent of legislature.

§ 52. CONSOLIDATION OR MERGER.] Any two or more banks may, with the approval of the State Examiner, consolidate or merge into one bank under the charter of either existing bank, on such terms and conditions as may be lawfully agreed upon by a majority of the board of directors of each bank proposing to consolidate or merge, and be ratified and confirmed by the vote of the shareholders of each such bank owning at least two-thirds of its capital stock outstanding, at a meeting to be held on the call of the directors, after sending notice to each shareholder of record by registered mail at least ten days prior to said meeting; provided, that the stockholders may unanimously waive such notice and may consent to such meeting and consolidation or merger in writing. Provided also, that the capital stock and surplus of such consolidated bank shall not be less than that required under existing law for the organization of a bank of the class of the largest consolidating bank.

The assets and liabilities of the consolidated bank shall be reported by the surviving bank. All the rights, franchises, and interest of said bank so consolidated in and to every species of property, real, personal and mixed and choses in action thereto belonging, shall be deemed to be transferred to and vested in such bank into which it is consolidated without other instrument of transfer, and the said consolidated bank shall hold and enjoy the same and all rights of property, franchises, and interests in the same manner and to the same extent as was held and enjoyed by the bank so consolidated therewith, provided, however, that the merging bank shall transfer to the surviving bank all of its real property by good and sufficient deed of conveyance and for that and other purposes shall remain a body corporate for a period of at least three years after merger and shall not then dissolve without the approval of the State Examiner.

§ 53. HOW DISSOLVED. DUTIES STATE EXAMINER.] Any association organized under the provisions of this act, may be dissolved by the district court of the county where its office or principal place of business is situated upon its voluntary application for that purpose. The application must be in writing, and must set forth that at a meeting of the stockholders or members called for that purpose, the dissolution was resolved upon by a two-thirds vote of the capital stock outstanding, and that all claims and demands against the association have been satisfied and discharged. The application must be signed by a majority of the board of directors, or other officers having the management of the affairs of the association, and must be verified in the same manner as a complaint in a civil action. A certified copy of the application shall be filed with the State Examiner, or such state officer as is by law authorized to examine such association, within ten days after the filing of such application with the district court. If the court is satisfied that the application is in conformity with this act it must order the application to be filed, and that the clerk give not less than thirty nor more than sixty days

notice of the application by publication in some newspaper published in the county, and if there are none such, then by advertisement posted in five of the principal public places in the county. At any time before the expiration of the time of publication, any person may file his objections to the application. Before the final hearing and determination of the application, the State Examiner shall make a thorough examination of the affairs of such association, and file a certified statement of such examination with the clerk of court of the county where such application is made, which statement shall be a part of the papers in the case. After the time of publication has expired the court may, upon five days notice to the persons who have filed objections or without further notice if no objections have been filed, proceed to hear and determine the application, and if all the statements therein made are shown to be true, the court must declare the association dissolved. No stockholder or officer of such association shall be allowed to withdraw from such association, or surrender or dispose of his share of stock, after the filing or making of such application for dissolution and prior to the final determination of the case. Upon the dissolution of such association by the district court, the clerk of said court shall forthwith notify the Secretary of State of such dissolution, by sending a copy of the order of the court, and said order and notice shall be filed by the Secretary of State with the original certificate of organization. The application, notices and proof of publication, objections, if any, and declaration of dissolution, constitute the judgment roll, and from the judgment an appeal may be taken in the same manner as in other actions. The Secretary of State shall immediately certify such dissolution to the State Examiner.

§ 54. TAXATION.] Banks organized and existing under and by virtue of the laws of the State of North Dakota shall be taxed upon the same basis only as banks organized and existing under and by virtue of the laws of the United States of America, it being the purpose, design and intent of this section to place state banks in a position of parity and equality in matters of taxation with national banks.

§ 55. BANKS EXEMPT FROM ATTACHMENT AND EXECUTION.] Every banking association in this state shall be exempt from the legal process of attachment and execution. But if any bank fails, neglects or refuses to pay any valid final judgment or decree that may be rendered against it by any court of competent jurisdiction, not properly stayed by an appeal bond within the time prescribed by statute or order of court after rendition thereof, the State Banking Board shall declare such bank insolvent or in failing circumstances and shall forthwith cause a receiver to be appointed to wind up its affairs.

§ 56. BANKS TO HAVE OFFICIAL NUMBER.] It is hereby provided that all banks existing and hereafter organized under the laws

of this state shall be numbered and shall receive from the Secretary of State an official number, and it shall be the duty of the Secretary of State to notify each bank of its official number and also file a list of same with the State Examiner.

§ 57. ESTATES OWNING BANK STOCK. NOTICE TO STATE EXAMINER.] It shall hereafter be incumbent upon the county judge before whom the administration of an estate or the probating of a will is had, at the time of publishing notice to creditors, to serve, by registered mail, a copy of such notice to creditors upon the State Examiner. Upon receipt thereof, the Examiner shall refer to the lists of shareholders of banks on file in his office and determine whether or not the deceased person was, at the time of his death, the owner of any shares of a state banking association as the same is defined by this act, or had owned, and transferred, any such stock within the period of one year before the date of his death. If it shall be found that such deceased person did so own or had so transferred any such stock, the State Examiner shall immediately notify the bank in which such stock is held, or if it be a closed bank, then the receiver thereof, of the decease of such stockholder, including in such notice information as to the county in which such probate proceeding is pending and the title of such proceeding. Upon receipt of such notice, it shall thereupon become the duty of the officers of such open bank, or the receiver of such closed bank, as the case may be, to file with the administrator, executor, or the county judge of the county in which such probate proceeding is pending, a proper claim for such amounts, if any, as may be owing to said bank, or the receiver thereof, from the deceased by reason of the ownership or transfer of such stock, and for any indebtedness of the deceased to the said bank, or to the receiver thereof, either as principal debtor, surety, guarantor, or otherwise.

§ 58. COLLECTION BY BANKS. LIABILITY.] The Bank of North Dakota and any bank doing business in this state, which shall cash, receive for application on an obligation, or for collection or deposit and credit, any check, note, or other negotiable instrument drawn upon or payable at any other bank, savings bank, trust company, or other financial institution located in another city or town, or which should be presented for acceptance or payment in another city or town, whether within or without this state, may, at its option, forward such instrument for presentment or collection directly to the bank on which it is drawn, or at which it is made payable, or may forward it through the Federal Reserve Bank, or other recognized banking agencies, and in payment of such collection such bank or other agency may accept the exchange or draft of the collecting or payor bank. Such method of collection shall, in the absence of a special agreement to the contrary, be deemed to be agreed to by the parties and the forwarding bank and successive agencies shall not be liable to the owner or depositor until actual final payment is

received by the collection of such exchange or draft, and until such final collection the depositor, indorser, guarantor or surety of any check, draft, or other instrument so received, deposited, cashed or credited, shall be liable to the bank to the extent of any money paid out or credit given by it on account of such instrument.

Provided, however, the bank and every other agency through whose hands such instrument or the proceeds thereof shall pass shall be charged with ordinary business care, and shall be liable for any lack thereof, or for any default or negligence on its part resulting in loss, but not for the default, negligence or lack of care of any other agencies, and the owner or depositor of such instrument shall have a cause of action directly against such bank, or other agencies, for his damage or loss on account of its default or lack of ordinary care.

§ 59. FORGED CHECKS. LIABILITY OF BANK.] No bank shall be liable to a depositor for the payment by it of a forged or raised check unless within ninety days after the end of the month in which such check is paid such depositor shall notify the bank in writing that the check so paid is forged or raised.

§ 60. CERTIFIED CHECKS. MISDEMEANOR.] It shall be unlawful for an officer, clerk, or agent of any state banking association to certify any check, draft, or order drawn upon the association unless the person drawing the same has on deposit with the association at the time of such certification an amount of money equal to the amount specified therein and upon such certification the amount of such certified check, draft or order shall be immediately charged against the account of such drawer. Any officer or employee of any banking association who shall wilfully violate the provisions of this section shall be deemed guilty of a misdemeanor.

§ 61. FALSE STATEMENTS TO OBTAIN CREDIT.] Any person who, either individually or in a representative capacity:

1. Shall knowingly make a false statement in writing to any state banking association respecting his own financial condition, or the financial condition of any person, firm or corporation for the purpose of procuring a loan or credit in any form, or an extension of credit from such state banking association to whom such false statement is made, either for his own use, or for the use of any person, firm or corporation; or,

2. Having previously made or having knowledge that another has previously made a statement in writing to any state banking association respecting his own financial condition, or the financial condition of any person, firm or corporation, shall afterwards, on the faith of such statement, procure from such state banking association, to whom any such previous statement has been made, either for his own use or for the use of any person, firm or corporation, a loan or credit in any form, or an extension of credit, knowing at the time

of procuring the same that such previously made statement is in any material particular false, with respect to the financial condition of himself or of any firm or corporation at the time of procuring such loan, credit or extension of credit ; or,

3. Shall deliver to any note broker, or other agent, for the sale or negotiation of commercial paper to any state banking association any statement in writing, knowing the same to be false, respecting his own financial condition or the financial condition of any person, firm or corporation, for the purpose or with the intent of having such statement used in furtherance of the sale, pledge or negotiation of any note, bill or other instrument for the payment of money, made or endorsed or accepted, or owned in whole or in part by him individually, or by any person, firm or corporation ; or,

4. Having previously delivered or having knowledge that another has previously delivered to any note broker, or other agent, for the sale or negotiation of commercial paper described in the preceding subdivision, a statement in writing respecting his own financial condition or the financial condition of any person, firm or corporation, shall afterwards deliver to any such note broker or other agent, for the purpose of sale, pledge or negotiation, on the faith of any such statement, any note, bill or other instrument for the payment of money made, endorsed, accepted or owned in whole or in part, either by himself or by any person, firm or corporation, knowing at the time that such previously delivered statement is in any material particular false as to the present financial condition of himself, or any person, firm or corporation, shall be guilty of a misdemeanor.

§ 62. FALSE STATEMENTS CONCERNING VALUE.] Any person who knowingly makes or publishes any book, prospectus, notice, report, statement, exhibit, or other publication containing any statement which is wilfully false and which is intended to give and does give a substantially greater or less apparent value to the shares, bonds, or property, or any part thereof, of any state banking association, than said shares, bonds, property or any part thereof, shall in fact possess, shall be guilty of a misdemeanor.

§ 63. SLANDER AND LIBEL. MISDEMEANOR.] Any person who shall wilfully and maliciously make, circulate or transmit to another or others, any false statement, rumor or suggestion, written, printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any state or national bank now existing under the laws of or doing business in this state, or that may be hereafter organized under this act, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such false statement or rumor, shall be guilty of a misdemeanor, and in addition thereto shall be liable in damages to such association, or the receiver thereof, to be recovered in a civil action brought for that purpose.

§ 64. FALSE STATEMENTS ON (OR) ENTRIES. FELONY.] Every director, officer, agent or clerk of any association organized under this Act, who wilfully and knowingly subscribes or makes any false statements or entries in the books of such association, or knowingly subscribes or exhibits any false paper with intent to deceive any person authorized to examine as to the condition of such association, or wilfully subscribes or makes false reports, shall be guilty of a felony.

§ 65. FORFEITURE OF FRANCHISE.] Every association organized under this Act which shall refuse or neglect to comply with any requirements, lawfully made upon it by the State Banking Board, or by the State Examiner, pursuant to this Act, for a period of ninety days (or for a lesser period if specified in the order) after demand in writing by such board or examiner is made, shall be deemed to have forfeited its franchise and any failure on the part of such association to comply with, or any violation of any of the provisions of this Act, shall work a forfeiture of its franchise, and in either case the Attorney General, upon demand of the State Banking Board, must commence an action for the purpose of annulling the existence of said association.

§ 66. PENALTY FOR VIOLATIONS.] Any officer of any banking association, violating or knowingly permitting to be violated, the provisions of this Act, not hereinbefore specifically designated as a crime shall be guilty of a misdemeanor.

§ 67. PENALTIES. HOW RECOVERED.] All fines and penalties herein provided for, to which any association under this Act may become subject, shall be recovered on complaint of the State Examiner, before any court having competent jurisdiction, and all fines and penalties so recovered shall be paid into the State Treasury.

§ 68. PUNISHMENTS OF FELONIES AND MISDEMEANORS.] Every offense declared by this Act to be a felony is punishable by a fine not exceeding one thousand dollars or by imprisonment in the penitentiary for not less than one and not exceeding ten years, or by both such fine and imprisonment.

Every offense declared by this Act to be a misdemeanor is punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

In all cases where a corporation is convicted of an offense for the commission of which a natural person would be punishable, and there is no other punishment prescribed herein, such corporation is punishable by a fine of not less than five hundred dollars and not exceeding five thousand dollars.

§ 69. REPEAL.] Sections 5146, 5147, 5148, 5150, 5151, 5152, 5153, 5154, 5155, 5156, 5157, 5158, 5159, 5160, 5161, 5162, 5164, 5165, 5166, 5167, 5168, 5169, 5170, 5171, 5172, 5173, 5174, 5175, 5176, 5177, 5178, 5179, 5180, 5181, 5182, 5183, 5184, 5185, 5186,

5187, 5188, 5189, 5190, 5192, 5193, 5194, 5195, 5196, 5197, 5198, 5199, 5200, 5201, 5202, 5203, 5204, 10006, 10007, 10010, 10011 and 10012 of the Compiled Laws of North Dakota for the year 1913, Chapter 111 of the Session Laws for the year 1919, Chapters 138 and 139 of the Session Laws for the year 1923, Chapters 92 and 170 of the Session Laws for the year 1925, Chapters 91, 92, 93, 96, 97 and 98 of the Session Laws for the year 1927, Chapters 87 and 88 of the Session Laws for the year 1929, together with all acts amendatory thereof and all other acts or parts of acts repugnant to and inconsistent herewith are hereby repealed.

§ 70. SAVING CLAUSE.] Nothing in this Act contained repealing any Act for the regulation or conduct of banking, shall be construed, to release any person from punishment for any acts heretofore committed violating said Act or Acts nor affect in any manner any existing indictment or prosecution by reason of such repeal; and for that purpose such Acts shall continue in force and effect notwithstanding such repeal.

§ 71. INVALIDITY.] In the event that any section or clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent or final jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operation to the section, clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Approved March 12, 1931.

## BARBERS

### CHAPTER 97

(S. B. No. 24—Porter by Request.)

#### APPRENTICE BARBER

An Act to amend and re-enact Section 3 of Chapter 101 of the Session Laws of the State of North Dakota for 1927.

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

That Section 3 of Chapter 101 of the Session Laws of the State of North Dakota for 1927 be amended and re-enacted to read as follows:

§ 3. PRACTICE OF APPRENTICE.] No registered apprentice may independently practice barbering, but they may as an apprentice do any or all of the acts constituting the practice of barbering under the immediate personal supervision of a registered barber; provided that not more than one apprentice shall be employed in any one barber shop.

Approved February 5th, 1931.



## CHAPTER 98

(S. B. No. 22—Porter by Request.)

## PROHIBITED ACTS PRACTICE OF BARBERING

An Act to amend and re-enact Section 18 of Chapter 101 of the Session Laws of the State of North Dakota for 1927.

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

That Section 18 of Chapter 101 of the Session Laws of the State of North Dakota for 1927 be amended and re-enacted to read as follows:

§ 18. CERTAIN ACTS PROHIBITED.] Each of the following are hereby declared a misdemeanor punishable upon conviction by a fine of not less than \$25.00, nor more than \$200.00.

1. The violation of any of the provisions of Sections 1 and 3 of the act.

2. Permitting any person in one's employ, supervision, or control to practice as an apprentice unless that person has a certificate of registration as a registered apprentice.

3. Obtaining or attempting to obtain a certificate of registration by the payment of money other than the required fee, or any other thing of value, or by fraudulent misrepresentation.

4. Practicing or attempting to practice by fraudulent misrepresentations.

5. The wilful failure to display a certificate of registration as required by Section 13.

6. The use of any room or place for barbering which is also used for residential or business purposes (except the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco, candies in original package and such commodities as are used and sold in barber shops, and except that shoe shining and an agency for the reception and delivery of laundry, or either may be conducted in a barber shop without the same being construed as a violation of this section), unless a substantial partition of ceiling height separates the portion used for residential or business purposes from such room used for barbering, except that a barber shop and beauty parlor may be operated in conjunction, without the same being separated by a partition of ceiling height.

Approved February 9th, 1931.

## CHAPTER 99

(S. B. No. 26—Porter by Request.)

**QUALIFICATIONS FOR REGISTERED BARBER**

An Act to amend and re-enact Section 5 of Chapter 101 of the Session Laws of the State of North Dakota for 1927.

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

That Section 5 of Chapter 101 of the Session Laws of the State of North Dakota for 1927 be amended and re-enacted to read as follows:

§ 5. A person is qualified to receive a certificate of registration to practice barbering:

1. Who is qualified under the provision of Section 6 of this Act;
2. Who is at least 18½ years of age;
3. Who is of good moral character and temperate habits;
4. Who has practiced as a registered apprentice for a period of 24 months under the immediate supervision of a registered barber;
5. Who has passed a satisfactory examination conducted by the Board to determine his fitness to practice barbering.

An applicant for a certificate of registration to practice as a registered barber who fails to pass a satisfactory examination conducted by the Board, must continue to practice as an apprentice for an additional six months, before he is again entitled to take the examination for a registered barber.

Approved February 9th, 1931.

**BONDS**

## CHAPTER 100

(H. B. No. 125—Dahl and Olson of Burleigh.)

**BONDS CONTRACTORS ON PUBLIC IMPROVEMENTS**

An Act to amend and re-enact Section 6832, Supplement to the Compiled Laws of 1913, relating to bonds from contractors on public improvements.

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

§ 1. AMENDMENT.] That Section 6832, Supplement to the Compiled Laws of 1913, be and the same is hereby amended and re-enacted to read as follows:

§ 6832. BONDS FROM CONTRACTORS ON PUBLIC IMPROVEMENTS.] It shall be the duty of every public officer or board authorized to enter into a contract for the erection, repair, alteration or

betterment of any public building, or any other public improvements, except municipal improvements, before entering into such contract, to take from the contractor a good and sufficient bond for an amount at least equal to the price stated in the contract conditioned to be void if the contractor and all sub-contractors shall pay all bills and claims on account of labor or materials, or supplies used for machinery and motor power equipment, performed, furnished and used in and about the performance of said contract, including all demands of sub-contractors, said bond to stand as security for all such bills, claims and demands until the same are fully paid. The obligee in said bond shall be the State of North Dakota; but any person having any lawful claim against the contractor, or any sub-contractor, on account of labor or materials, or supplies as aforesaid, performed, furnished or used in and about the performance of said contract, may institute an action to recover the same in his own name upon said bond in the manner and with like effect as though said bond were payable to him. No contract for public improvements, as hereinbefore described, shall be valid unless the contractor shall furnish a bond as required herein, conditioned upon the payment by the contractor and all sub-contractors of all bills, claims and demands on account of all items hereinbefore set forth.

§ 2. This Act is hereby declared to be an emergency measure, and shall be in full force and effect immediately after its passage and approval.

Approved March 10, 1931.

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## CHAPTER 101

(H. B. No. 267—Bishop.)

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### DISCONTINUANCE ISSUE N. D. MILL AND ELEVATOR SERIES AND MILLING BONDS

An Act providing that no further bonds of the North Dakota Mill and Elevator Series and Milling Bonds of the State of North Dakota shall be issued, and repealing all parts of Chapter 153 of the 1919 Session Laws of North Dakota and Chapter 291 of the Session Laws of North Dakota for 1923 as are in conflict herewith.

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

§ 1. No further bonds of the North Dakota Mill and Elevator Series, and no further milling bonds of the State of North Dakota heretofore authorized by Chapter 153 of the 1919 Session Laws of North Dakota (being Sections 2290D1 to 2290D17, Supplement to the Compiled Laws of North Dakota for 1913) and by Chapter 291, Session Laws of North Dakota for 1923 (being Sections 2290E1 to 2290E9, Supplement to the Compiled Laws of North Dakota for 1913), shall be issued.

§ 2. REPEAL.] All parts of Chapter 153, Session Laws of North Dakota for 1919 and Chapter 291, Session Laws of North Dakota for 1923 in conflict herewith and not otherwise, shall be repealed.

Approved March 9, 1931.

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## CHAPTER 102

(H. B. No. 129—Holte of Cass and Swett.)

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### AMOUNT OF ISSUE N. D. REAL ESTATE BONDS

An Act to amend and re-enact Section 2290c13 of the Supplement to the 1913 Compiled Laws of North Dakota, as amended by Section 4 of Chapter 182 of the Session Laws of 1929, relating to the Bonds of North Dakota real estate series.

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

§ 1. AMENDMENT.] That Section 2290c13 of the Supplement to the 1913 Compiled Laws of North Dakota, as amended by Section 4 of Chapter 182 of the Session Laws of 1929, is hereby amended and re-enacted to read as follows:

§ 2290c13. The powers herein granted may be repeatedly exercised and the duties following thereupon shall be likewise repeatedly performed, from time to time as the occasion may arise under the terms of this act; provided, however, that at no time shall the amount of bonds issued and outstanding pursuant to the terms of this act, exceed the amount of thirty-five million dollars. The State Treasurer shall pay to The Bank of North Dakota, quarterly, on the first day of January, April, July and October in each year, the administration charge included in the interest rate upon all mortgages deposited with him.

Approved March 2, 1931.

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## CHAPTER 103

(S. B. No. 207—Fowler.)

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### BONDS VARIOUS STATE AND COUNTY OFFICERS

An Act to amend and re-enact Section 663, Compiled Laws of 1913, relating to bonds of various officers.

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

§ 1. AMENDMENT.] That Section 663, Compiled Laws of 1913, be and the same is hereby amended and re-enacted to read as follows:

§ 663. AMOUNTS OF BONDS OF VARIOUS OFFICERS. The bond of each state officer required to give a bond, the amount of which is not otherwise provided by law, shall be in the penal sum of five

thousand dollars; of the county auditor, register of deeds, clerk of court and sheriff in the penal sum of fifteen thousand dollars each, except in counties having a population of less than ten thousand inhabitants, in which counties such bonds shall be in the penal sum of ten thousand dollars each; of the state's attorney and county judge in the penal sum of three thousand dollars each; of the county superintendent of schools, justices of the peace, constables, coroner and notaries public, in the sum of five hundred dollars each. The bond of the county treasurer shall be in a penal sum, to be fixed by the board of county commissioners; but that the bond of each county treasurer shall not be in a less penal sum than seventy-five thousand dollars, except in counties having a population of less than ten thousand inhabitants, in which counties such bonds shall be in the penal sum of not less than forty thousand dollars each. Provided that when the total amount of taxes to be collected by him in any year, is less than the minimum amount of the bond of such county treasurer, as hereinbefore provided, then in the amount of taxes to be collected.

Approved March 11, 1931.

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## CEMETERIES

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### CHAPTER 104

(S. B. No. 107—Porter.)

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#### REGULATION OF CEMETERIES

**An Act to regulate cemeteries, to provide for the appointment of sextons and secretaries, defining their duties, providing for the plotting and laying out of cemeteries, the registration of burials, and defining the duties of the State Department of Health in regard to burials, their registration, and cemeteries.**

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

§ 1. No dead human body shall be buried in the State of North Dakota except in a properly registered cemetery as herein provided; except that dead human bodies may be buried at other places upon request of relatives and friends, upon complying with the other provisions of this act.

§ 2. All persons, corporations, municipalities, associations and organizations owning, conducting, or maintaining a cemetery or plot for the burial of dead human bodies, shall:

(1) Provide for a sexton or secretary. Said sexton or secretary shall hold office until his successor has been duly appointed and qualified. All records shall be duly transferred and delivered to such successor. It shall be the duty of the sexton or secretary to enforce

the laws of the state and the rules and regulations of the State Department of Health with respect to the burial of dead human bodies within the cemetery under his charge.

(2) Cause the plot or parcel of ground used and designated as a cemetery to be plotted into orderly blocks and lots, alleys and streets or driveways, giving to each a distinctive name or number that shall be a permanent designation of their location. The original drawing shall be filed with the County Register of Deeds and a copy or blue print filed with the sexton or secretary.

(3) Register with the State Department of Health the name and location of such cemetery, or place of burial, name and address of the sexton, name and address of all other officers of the cemetery association, corporation, or organization; and shall furnish such other and further information and reports as the State Health Department may from time to time require.

(4) Keep a local register of all burials, showing name of deceased, date and location of burial, cause and date of death, name and address of undertaker, if there be such person employed, together with such other information and data as the State Department of Health may require.

§ 3. The State Department of Health shall make and enforce such rules and regulations as are necessary to carry out the provision of this Chapter.

§ 4. Any violation of the provisions of this act shall constitute a misdemeanor.

§ 5. All acts and statutes inconsistent with the provisions of this Chapter are hereby repealed.

Approved March 6, 1931.

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## CIGARETTES

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### CHAPTER 105

(S. B. No. 204—Watt, Fine, Brunsdale and Burkhart.)

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#### SALE OF CIGARETTES, ETC.

An Act amending and re-enacting Sections 3, 5, 7 and 8 of Chapter 106, Laws of North Dakota for the year 1927, relating to the sale of cigarettes, and cigarette papers and wrappers and papers used and prepared for the making of cigarettes; providing for issuing licenses for the purpose of making sales thereof and furnishing of bond; providing for the levy, assessment, collection and payment of a tax thereon; providing for the regulation of the sales thereof, and penalty for violation of this act; and defining the duties of the Attorney General, State Auditor and State Treasurer imposed under the provisions of this act; and providing that any person violating this act shall be enjoined and that any building or premises

made use of for purposes in violation of this act shall be deemed a nuisance and abated by injunction; and to include snuff within the provisions and requirements thereof.

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

§ 1. AMENDMENT.] That Section 3 of Chapter 106 of the Laws of North Dakota for the year 1927 is hereby amended and re-enacted so as to read as follows:

§ 3. No permit shall be issued until the applicant shall have paid to the Attorney General a mulct tax of \$12.50, as a license fee. The Attorney General shall receipt for such payments and shall forthwith pay all such remittances to the State Treasurer, and such funds shall be turned into the general fund of the State.

§ 2. AMENDMENT.] That Section five of Chapter 106 of the Laws of North Dakota for the year 1927 is hereby amended and re-enacted to read as follows:

§ 5. From and after the taking effect of this Act, there is hereby levied and assessed and shall be collected and paid to the State Treasurer upon all cigarettes, cigarette papers or wrappers and tubes, and snuff sold in North Dakota to consumers, the following taxes, to be paid prior to the time of sale and delivery thereof to the consumer:

Class A. On cigarettes weighing not more than three pounds per thousand, one and one-half mills on each such cigarette.

Class B. On cigarettes weighing more than three pounds per thousand, two mills on each such cigarette.

Class C. On cigarette papers or wrappers or any papers made or prepared for the purpose of making cigarettes made up in packages, books or sets; on each such package, book or set containing not more than fifty papers, one-half cent; containing more than fifty papers but not more than one hundred papers, one cent; containing more than one hundred papers, one cent for each fifty papers or major fractional part thereof.

Class D. On tubes, one cent for each fifty tubes or major fractional part thereof.

All cigarettes sold in this State under the provisions of this Act shall be put up in packages containing 5, 8, 10, 12, 15, 16, 20, 24, 40, 50, 80 or 100 cigarettes each. All snuff sold in this State under the provisions of this Act shall be put up in packages containing not more than twelve ounces thereof each. Immediately upon receipt by the licensee, each package of cigarettes or snuff and each package, book or set of papers or of tubes, shall have securely affixed thereto, in such manner as to seal the opening of the package, and be destroyed by the opening thereof, a suitable stamp denoting the tax thereon, and said stamp shall be properly cancelled prior to sale or removal

for consumption, under such regulations as the State Treasurer shall prescribe. Provided that cigarettes or snuff sold to a consumer in cartons, rolls or other containers having more than one package or box therein, shall have affixed thereto in the manner herein provided, stamps in the amount by this act required to be placed upon the several packages, boxes or receptacles, therein contained. Each package of snuff or cigarettes and each package, or book or set of papers or of tubes displayed, exhibited, stored or possessed in original cartons or containers or otherwise, within or upon the premises from which sale thereof may be made to the consumers shall be conclusively presumed to be intended for sale to consumers and to be displayed, exhibited, stored or possessed for such purpose; and each such package of snuff or cigarettes and each such package, book or set of papers or of tubes, at the time the same is so displayed, exhibited, stored or possessed upon such premises, shall have securely affixed thereto a suitable stamp, or stamps, denoting the tax thereon, which stamps shall be cancelled at the time and in the manner hereinbefore required; and the possession of any such package of snuff, cigarettes, package, book or set of cigarette papers or of tubes, within or upon any such premises, except cigarettes in unbroken containers of at least 2,000 cigarettes, shall be prima facie evidence of a sale made in violation of this Act; provided, however, that such presumption and the requirements as to stamps shall not apply to wholesale dealers selling to retail dealers for re-sale by the latter to consumers. The premises from which such sale to consumers may be made shall be deemed to include basements, rooms and store rooms within and upon or adjacent and contiguous to the premises described in the permit of the person, firm or corporation owning or operating the premises described in the permit, when such basement rooms or store rooms are in the possession of or used by such person, firm or corporation.

For any violation of any of the foregoing provisions of this section, the offender, upon conviction thereof, shall be fined not less than \$100.00 nor more than \$300.00 and costs of prosecution, and shall be committed to the county jail until such fine and costs are paid, but not for a period exceeding six months, and all cigarettes, cigarette papers or wrappers, and papers made or prepared for the purpose of making cigarettes, and snuff in his possession or in his place of business shall be confiscated and forfeited to the State.

It shall be unlawful for any person not authorized hereby, with intent to defraud the state, to make, alter, forge or counterfeit any license or stamp provided for in this act or to have in his possession any forged, counterfeited, spurious or altered license or stamp, knowing the same to be forged, counterfeited, spurious or altered, and any person found guilty of any violation of this provision shall be fined not more than \$1,000.00 and shall be imprisoned in the State Penitentiary for a period of not more than three years.



§ 3. AMENDMENT.] That Section 7 of Chapter 106 of the Laws of North Dakota for the year 1927 is hereby amended and re-enacted so as to read as follows:

§ 7. In the enforcement of this act, the Attorney General may call to his assistance any State's Attorney or any peace officer, and may also call to his assistance any State Tax Supervisor to carry out the provisions of this Act. The Attorney General is hereby authorized to appoint such necessary additional assistants and representatives as he may require to carry out the provisions of this Act.

§ 4. AMENDMENT.] That Section 8 of Chapter 106 of the Laws of North Dakota for the year 1927 is hereby amended and re-enacted so as to read as follows:

§ 8. All persons, firms, corporations or associations who shall sell or otherwise dispose of cigarettes, cigarette papers or snuff, shall keep and preserve for one year all invoices, of cigarettes, cigarette papers or snuff, purchased by them, together with all receipts issued by the State Treasurer for stamps purchased by said persons, firms, corporations or associations, and shall permit the Attorney General, his assistants or his authorized agent or representative or any State Tax Supervisor to inspect and examine all taxable merchandise, invoices, receipts, books, papers and memoranda as may be deemed necessary by the Attorney General, his assistants or his authorized agent or representative in ascertaining whether the stamps provided for herein have been purchased and used, or to determine the amount of such tax as may be yet due. All persons, firms or corporations selling or otherwise disposing of cigarettes, cigarette papers or snuff as enumerated herein at wholesale shall keep a record of all sales made within this state, showing the name of the purchaser, the date of sale and the address of the purchaser.

On the first day of April and October of each year all permittees hereunder shall, on such forms as the Attorney General shall prescribe, report to the Attorney General all purchases of cigarettes, cigarette papers, tubes or snuff made, from any persons either within or without this state during the preceding six months, showing the name and address of the seller, the date of purchase and the quantity and make of all such cigarettes, cigarette papers, tubes and snuff. Any person, firm or corporation violating any provisions of this Section shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or by imprisonment in the county jail not more than thirty (30) days, or both such fine and imprisonment. The Attorney General may revoke any permit when the permittee does not make the report herein provided for.

No consumer who shall purchase any package of cigarettes, cigarette papers, tubes or snuff, which package does not bear a stamp placed thereon pursuant to the provisions of this act, any

consumer who fails to destroy said stamp when opening said package, or every consumer who purchases any package of cigarettes, cigarette papers, tubes or snuff, which package does not bear the stamp placed thereon pursuant to the provisions of this Act; and every person who shall use or consume within this state any cigarettes, cigarette papers, tubes or snuff, unless the same shall be taken from a package or container as defined in this act, having attached thereto the stamp as hereinbefore provided for and required, shall be guilty of a misdemeanor and shall be punished by a fine or imprisonment as in the preceding section set forth.

Any person, firm or corporation violating any of the provisions of this Act, or maintaining a place where such cigarettes, snuff or cigarette papers are sold or kept with intent to sell in violation of the provisions of this Act shall be deemed guilty of keeping and maintaining a nuisance, and the building or place so used for the sale or keeping for sale cigarettes, snuff or cigarette papers, or wrappers, in violation of the provisions of this Act shall be deemed to be a nuisance, and such person, firm or corporation shall be enjoined, and such building or place abated as a nuisance, and the procedure for the actions to enjoin and abate such nuisance, or for contempt in violating an order of injunction, shall be, so far as applicable, the same as those now provided by the laws of this State for enjoining and abating intoxicating liquors.

Approved March 12, 1931.

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## CONSTITUTIONAL AMENDMENTS PROPOSED

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### CHAPTER 106 CONCURRENT RESOLUTION (S. B. No. 144—Murphy, Ployhar and Cain.)

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#### FUTURE AMENDMENTS TO THE CONSTITUTION

A Concurrent Resolution providing for the amendment of Section 202 of Article 15 of the Constitution of the State of North Dakota, relating to the future amendments.

*Be It Resolved by the Senate of the State of North Dakota, The House of Representatives Concurring:*

That the following proposed amendment to Section 202 of Article 15 of the Constitution of the State of North Dakota is agreed to and that the same be submitted to the qualified electors of the state for approval or rejection, in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota, as amended.

§ 1. AMENDMENT.] That Section 202 of Article 15 of the Constitution of the State of North Dakota is hereby amended and re-enacted to read as follows:

§ 202. Any amendment or amendments to the Constitution of the State may be proposed in either house of the legislature, and if the same shall be agreed to upon roll call by a majority of the members elected to each house it shall be submitted to the electors and if a majority of the votes cast thereon are affirmative, such amendment shall be a part of this Constitution.

Amendments to the Constitution of the State may also be proposed by initiative petition of the electors; such petition shall be signed by forty thousand of the electors at large and shall be filed with the Secretary of State at least one hundred twenty days prior to the election at which they are to be voted upon, and any amendment or amendments so proposed shall be submitted to the electors and shall become a part of the Constitution, if a majority of the votes cast thereon are affirmative. All provisions of the Constitution relating to the submission and adoption of measures by initiative petition and on referendum petition, shall apply to the submission and adoption of amendments to the Constitution of the State.

Filed March 12th, 1931.

CHAPTER 107  
CONCURRENT RESOLUTION  
(S. B. No. 145—Murphy, Ployhar and Cain.)

LEGISLATIVE POWER, INITIATIVE AND REFERENDUM

A Concurrent Resolution providing for the amendment of Section 25 of Article 2 of the Constitution of the State of North Dakota, relating to the Legislative Power of the State, and the Initiative and Referendum.

*Be It Resolved by the Senate of the State of North Dakota, The House of Representatives Concurring:*

That the following proposed amendment to Section 25 of Article 2 of the Constitution of the State of North Dakota is agreed to and that the same be submitted to the qualified electors of the state for approval or rejection, in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota, as amended.

§ 1. AMENDMENT.] That Section 25 of Article 2 of the Constitution of the State of North Dakota is hereby amended and re-enacted to read as follows:

§ 25. The legislative power of this state shall be vested in a legislature consisting of a senate and a house of representatives. The people, however, reserve the power, first to propose measures and

to enact or reject the same at the polls; second, to approve or reject at the polls any measure or any item, section, part or parts of any measure enacted by the legislature.

The first power reserved is the initiative. Thirty thousand electors at large may propose any measure by initiative petition. Every such petition shall contain the full text of the measure and shall be filed with the Secretary of State not less than ninety days before the election at which it is to be voted upon.

The second power reserved is the referendum. Twenty-five thousand electors at large may, by referendum petition, suspend the operation of any measure enacted by the legislature, except an emergency measure. But the filing of a referendum petition against one or more items, sections or parts of any measure shall not prevent the remainder from going into effect. Such petition shall be filed with the Secretary of State not later than ninety days after the adjournment of the session of the legislature at which such measure was enacted. No initiative or referendum petition shall be circulated or filed during a regular or special session of the legislature.

Each measure initiated by or referred to the electors, shall be submitted by its ballot title, which shall be placed upon the ballot by the Secretary of State and shall be voted upon at any state-wide election designated in the petition, or at any special election called by the governor. The result of the vote upon any measure shall be canvassed and declared by the board of canvassers.

Any measure, except an emergency measure submitted to the electors of the state shall become a law when approved by a majority of the votes cast thereon. And such law shall go into effect on the thirtieth day after the election, unless otherwise specified in the measure.

If a referendum petition is filed against an emergency measure, such measure shall be a law until voted upon by the electors. And if it is then rejected by a majority of the votes cast thereon, it shall be thereby repealed. Any such measure shall be submitted to the electors at a special election if so ordered by the Governor or if the referendum petition filed against it shall be signed by thirty-five thousand electors at large. Such special election shall be called by the Governor and shall be held not less than one hundred nor more than one hundred thirty days after the adjournment of the session of the legislature.

The Secretary of State shall pass upon each petition, and if he finds it insufficient he shall notify the "committee for the petitioners" and allow twenty days for correction or amendment. All decisions of the Secretary of State in regard to any such petition shall be subject to review by the Supreme Court. But if the sufficiency of such petition is being reviewed at the time the ballot is prepared, the Secretary of State shall place the measure on the ballot

and no subsequent decision shall invalidate such measure if it is at such election approved by a majority of the votes cast thereon. If proceedings are brought against any petition upon any ground, the burden of proof shall be upon the party attacking it.

No law shall be enacted limiting the number of copies of a petition which may be circulated. Such copies shall become a part of the original petition when filed or attached thereto. Nor shall any law be enacted prohibiting any person from giving or receiving compensation for circulating the petition, nor in any manner interfering with the freedom in securing signatures to petitions.

Each petition shall have printed thereon a ballot title which shall fairly represent the subject matter of the measure, and the names of at least five electors who shall constitute the "committee for the petitioners" and who shall represent and act for the petitioners.

The enacting clause of all measures initiated by the electors, shall be: "Be it enacted by the people of the State of North Dakota." In submitting measures to the electors, the Secretary of State, and all other officials shall be guided by the election laws until additional legislation shall be provided.

If conflicting measures initiated by or referred to the electors shall be approved by a majority of the votes cast thereon, the ones receiving the highest number of affirmative votes shall become the law.

The word "measure" as used herein shall include any law or amendment thereto, resolution, legislative proposal or enactment of any character.

The veto power of the Governor shall not extend to the measures initiated by or referred to the electors. No measures enacted or approved by a vote of the electors shall be repealed or amended by the legislature, except upon a yea and nay vote upon roll call of two thirds of all the members elected to each house.

This section shall be self-executing and all of its provisions shall be treated as mandatory. Laws may be enacted to facilitate its operation, but no law shall be enacted to hamper, restrict or impair the exercise of the rights herein reserved to the people.

Filed March 12, 1931.

# CORPORATIONS

## CHAPTER 108

(H. B. No. 133—Plath and Crockett.)

### ADOPTION 1921 COOPERATIVE ASSOCIATION ACT BY OTHER CORPORATIONS

An Act to amend and re-enact Section 4609a17 of the 1925 Supplement to the Compiled Laws of the State of North Dakota for the year 1913.

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

§ 1. That Section 4609a17 of the 1925 Supplement to the Compiled Laws of the State of North Dakota for the year 1913 be amended and re-enacted to read as follows:

§ 4609a17. COOPERATIVE ASSOCIATIONS AND OTHER CORPORATIONS HERETOFORE ORGANIZED MAY ADOPT PROVISIONS OF THIS ACT.] All cooperative corporations, companies, or associations heretofore organized and doing business under prior statutes, or which have attempted to so organize and do business under prior statutes, shall have the benefit of all the provisions of this act, and be bound thereby on filing with the Secretary of State a written declaration signed and sworn to by the president and secretary to the effect that said cooperative company or association has, by a majority vote of its stockholders, decided to adopt the benefits of and be bound by the provisions of this act. Any corporation, organized under the general corporation laws of this state, may, by a majority vote of its stockholders, amend its articles of incorporation or its by-laws to provide for the cooperative distribution of net earnings in compliance with the provisions of this act and thereupon shall have the benefit of and be bound by the provisions of this act upon filing with the Secretary of State an affidavit of the president and secretary, setting forth such amended by-law or by-laws and stating that the same has been adopted by a majority vote of its stockholders, provided the written assent of a majority of the stockholders to the passage of such by-law or by-laws shall be as effectual to authorize the amendment of such by-law or by-laws as if a meeting of the stockholders was called and held, and upon such written assent the president and secretary of such corporation may make and file the affidavit hereinbefore described.

Approved March 7, 1931.

CHAPTER 109  
(S. B. No. 110—Plath.)

COOPERATIVE ASSOCIATION STOCK IN OTHER  
ASSOCIATIONS

An Act to amend and re-enact Section 4609a10 Supplement to the Compiled Laws.

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

§ 1. AMENDMENT.] That Section 4609a10 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 4609a10. SUBSCRIPTIONS ON STOCK IN OTHER ASSOCIATIONS.] At any regular meeting, or at any regularly called special meeting at which at least a majority of all its stockholders shall be present, or represented, an association organized under the provisions of this Chapter may, by a majority vote of those stockholders present or represented at such meeting, subscribe for shares and invest its reserve fund, not to exceed 25% of its capital, in the capital stock of any other cooperative association, provided, however, nothing herein contained shall prohibit the Board of Directors of an association, organized under the provisions of this Chapter, from subscribing for shares, and investing its reserve, not to exceed 25% of its capital, in the capital stock of any other cooperative association, if specifically authorized by the by-laws of such association so to do.

Approved March 11, 1931.

CHAPTER 110  
(S. B. No. 55—Whitman.)

ANNUAL REPORTS COOPERATIVE MARKETING ASSOCIATIONS

An Act to amend and re-enact Section 4609b19 of the Supplement to the Compiled Laws of the State of North Dakota for the year 1913, as amended and re-enacted by Chapter 100 of the 1929 Session Laws for the State of North Dakota relating to annual reports and audits of cooperative marketing associations.

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

§ 1. AMENDMENT.] That Section 4609b19 of the Supplement to the Compiled Laws for the year 1913, as amended by Chapter 100 of the 1929 Session Laws for the State of North Dakota, be amended and re-enacted to read as follows:

§ 4609b19. ANNUAL REPORTS. AUDIT.] Each association formed under this Act shall prepare, swear to and file with the Secretary of State an annual report on blanks to be furnished by such secretary. Such report shall contain the name, place of business and the general activities of the association during the fiscal year; the

amount of paid-up capital stock and the number of stockholders of an association or the number of members and amount of membership fees received, if a nonstock corporation; the amount of its indebtedness or liability and its balance sheets, and such other and further information as shall be required by the Secretary of State. Such association shall further be subject to an examination by the State Bank Examiner at such time or times as such examination shall be demanded by twenty-five per cent of the stockholders or members but in no event to exceed one hundred stockholders or members, upon a written application filed with the said State Bank Examiner. For the purpose of making an examination under the provisions of this Act, the officers and managers of any such association shall exhibit to said Examiner all books, records, documents, papers and other records used and kept by the association in the daily conduct of its business.

Approved February 11, 1931.

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## CHAPTER 111

(S. B. No. 226—Fine.)

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### ARTICLES, FEES, ETC., COOPERATIVE MARKETING ASSOCIATIONS

An Act to amend and re-enact Subdivision (G) of Section 4609b8; Sections 4609b24 and 4609b30; and repealing Section 4609b29, Supplement to the Compiled Laws of 1913, relating to cooperative marketing associations.

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

§ 1. AMENDMENT.] That Subdivision (g), Section 4609b8, Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

(g) If organized with capital stock, the amount of such stock and the number of shares into which it is divided and the par value thereof. The capital stock may be divided into preferred and common stock. If so divided, the articles of incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and extent of the preference and privileges granted to each.

The articles must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of this State to take and certify acknowledgments of deeds and conveyances; and shall be filed in accordance with the provisions of the general corporation law of this state; and when so filed the said articles of incorporation, or certified copies thereof, shall be received in



all the courts of this state, and other places, as prima facie evidence of the facts contained therein, and of the due incorporation of such association.

§ 2. AMENDMENT.] That Section 4609b24, Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 4609b24. ASSOCIATION HERETOFORE ORGANIZED MAY ADOPT THE PROVISIONS OF THIS ACT. Any corporation or association organized and incorporated under previously existing statutes, having not less than five stockholders or members, which shall by a majority vote of its stockholders or members amend its articles of incorporation to provide for the acceptance of the provisions of this act, shall have the benefit and be bound by all the provisions of this act upon filing with the Secretary of State a certificate by its president and secretary setting forth such amendment and the vote by which same was adopted.

§ 3. AMENDMENT.] That Section 4609b30, Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 4609b30. FILING FEES.] For filing and recording articles of incorporation there shall be paid to the Secretary of State two dollars; for issuing certificate of incorporation three dollars; and for filing and recording an amendment to the articles of incorporation three dollars.

§ 4. REPEAL.] That Section 4609b29, Supplement to the Compiled Laws of 1913, be and is hereby repealed.

§ 5. EMERGENCY.] Whereas an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1931.

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CHAPTER 112  
(H. B. No. 164—Strutz.)

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BY-LAWS COOPERATIVE MARKETING ASSOCIATIONS

An Act to amend and re-enact Section 4609b10, 1925 Supplement to the Compiled Laws of North Dakota for the year of 1913, as amended by Chapter 100 of the 1929 Laws, relating to cooperative marketing associations.

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

§ 1. AMENDMENT.] That Section 4609b10, 1925 Supplement to the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 100 of the 1929 Laws be amended and re-enacted to read as follows:

§ 4609b10. BY-LAWS.] Each association incorporated under this act must, within thirty (30) days after its incorporation, adopt for its government and management, a code of by-laws, not inconsistent with the powers granted by this act. A majority vote of the members or stockholders, or their written assent, is necessary to adopt such by-laws. Each association under its by-laws may also provide for any or all of the following matter :

(a) The time, place and manner of calling and conducting its meetings.

(b) The number of stockholders or members constituting a quorum.

(c) The right of members or stockholders to be represented and to vote at annual or special meetings, by delegates or by mail; but no by-laws shall be passed permitting stockholders or members to vote by proxy.

(d) The number of directors constituting a quorum.

(e) The qualifications, compensation and duties and term of office of directors and officers; time of their election and mode and manner of giving notice thereof.

(f) Penalties for violation of the by-laws.

(g) The amount of entrance, organization, and membership fees, if any; the manner and method of collection of the same, and the purposes for which they may be used.

(h) The amount which each member or stockholder shall be required to pay annually or from time to time, if any, to carry on the business of the association; the charge, if any, to be paid by each member or stockholder for services rendered by the association to him and the time of payment and the manner of collection; and the marketing contract between the association and its members or stockholders which every member or stockholder may be required to sign.

(i) The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock; the method, time and manner of permitting members to withdraw or the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members and of the shares of common stock; the conditions upon which, and time when membership of any members shall cease. The automatic suspension of the rights of a member when he ceases to be eligible to membership in the association and mode, manner and effect of the expulsion of a member; manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or stockholder, or upon the expulsion of a member or forfeiture of his membership, or, at the option of the association, by conclusive appraisal by the

board of directors. In case of the withdrawal or expulsion of a member the board of directors shall equitably and conclusively appraise his property interest in the association and shall fix the amount thereof in money, which shall be paid to him within one year after such expulsion or withdrawal.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] Whereas an emergency exists, this bill shall take effect and be in force from and after its passage and approval.

Approved March 7, 1931.

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## CHAPTER 113

(S. B. No. 153—Matthaei.)

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### CONSOLIDATION OR MERGER DOMESTIC CORPORATIONS —PURCHASE OF BUSINESS, ETC., OF ANOTHER CORPORATION

An Act relating to the consolidation or merger of domestic corporations or the purchase by one such corporation of the business, property and assets of another corporation.

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

§ 1. Any two or more domestic corporations, heretofore or hereafter organized, except banking associations, may consolidate or merge into one corporation under the charter of either existing corporation or under the chapter (charter) of a newly organized corporation or any such domestic corporation, may sell, transfer, dispose of all of its property and assets to another corporation, on such terms and conditions as may be lawfully agreed upon by a majority of the board of directors of each interested corporation and be ratified and confirmed by the vote of the stockholders of each such corporation owning at least a majority of its capital stock outstanding, at a meeting to be held on the call of the directors, after sending notice to each stockholder of record by registered mail at least thirty days prior to said meeting at the last known address of said stockholder as shown by the books of the respective corporation, or if no such address is so shown then such notice shall also be published, three times, in a paper of general circulation in the county where the principal office of such corporation is located; provided that the stockholders of each such corporation may unanimously waive such notice and may consent to such meeting and consolidation, merger, sale or purchase in writing.

All the rights, franchises and interest of such consolidated, merged, sold or transferred corporation in and to every species of

property, real, personal and mixed and choses of action thereto belonging, shall be deemed to be transferred to and vested in such corporation into which it is consolidated, merged or otherwise transferred without other instrument of transfer, and the said receiving corporation shall hold and enjoy the same and all rights of property, franchises and interests in the same manner and to the same extent as was held and enjoyed by the disposing corporation; provided, however that the disposing corporation shall transfer to the receiving corporation all of its real estate by good and sufficient deed of conveyance.

Approved March 11, 1931.

CHAPTER 114  
(H. B. No. 229—Crockett.)

CORPORATE DIVIDENDS AND LIMITATIONS OF  
INDEBTEDNESS

An Act to amend Section 4543 of the 1925 Supplement to Compiled Laws of North Dakota, 1913, and to remove the limitation therein contained as to the creation of debts by cooperative associations or cooperative corporations.

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

§ 1. AMENDMENT.] That Section 4543 of the 1925 Supplement to Compiled Laws of North Dakota for 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 4543. DIVIDENDS ONLY FROM PROFITS; LIMITATIONS OF INDEBTEDNESS; EXCEPTIONS: The directors of corporations must not make dividends except from the surplus profits arising from the business thereof; nor must they divide, withdraw or pay to the stockholders, or any of them, any part of the capital stock, nor must they create debts beyond the subscribed capital stock, or reduce or increase the capital stock, except as specially provided by law; provided, however, that the above limitations as to the creation of debts shall not apply to the policy risks of insurance companies on which no loss has occurred, or the notes, bonds or debentures of any loan or trust company, or public utility, company or corporation, organized under the provisions of this chapter, when payment of such notes, bonds or debentures shall be secured by the actual transfer of real estate by trust deed or mortgage for the payment of such notes, bonds or debentures, which said real estate so transferred, shall be of twice the value of the par value of such notes, bonds and debentures; provided, further, that the limitation as to the value of property conveyed by trust deed, or mortgage shall not apply to the bonds or debentures of public utility corporations; provided, further, that such limitation shall not apply to any loan or trust company's guarantee of payment after transfer of any note, bond or debenture when the

same is secured by trust deed or mortgage as above stated; provided, further, that the above limitation as to the creation of debts shall not apply to certificates and debentures issued by investment companies for the creation of an investment fund for the holders of such certificates or debentures shall by the terms of the same, participate in the earnings of such investment fund; provided, further, that cooperative associations or corporations organized under the provisions of Chapter 43 or 44 of the Session Laws of North Dakota for the year 1921 may create debts in an amount not to exceed twice the amount of the capital stock of such association or corporation.

Approved March 11, 1931.

CHAPTER 115  
(H. B. No. 180—Cox.)

**RECEIVER'S DEEDS OF FOREIGN INSOLVENT CORPORATION:  
VALIDATION**

**An Act relating to receiver's deeds of foreign insolvent corporations and validating foreign receiver's deeds heretofore issued.**

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

§ 1. When foreign insolvent corporations own and hold real property in this state, such real property may be conveyed by the duly appointed and qualified receiver of such foreign corporation, under order of foreign court having jurisdiction of such foreign corporation.

§ 2. All deeds to real property in this state heretofore made by the duly appointed and qualified receiver of a foreign corporation under order of a foreign court having jurisdiction of such corporation are hereby declared valid and sufficient; provided, however, that in all cases there shall be recorded in the office of the Register of Deeds where such real property is situated a properly authenticated copy of the order of appointment of such receiver and the order of the foreign court having jurisdiction of such foreign corporation authorizing or approving the conveyance; provided, further, that any action or defense based on the invalidity of such receiver's deeds must be commenced or interposed within nine months after this act takes effect.

§ 3. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 11, 1931.

## COUNTIES

### CHAPTER 116

(S. B. No. 64—Brunsdale.)

#### NOTICE OF APPEAL FROM DECISIONS COUNTY COMMISSIONERS IN TAX MATTERS

**An Act to amend and re-enact Section 3299 of the Compiled Laws of North Dakota for the year 1913 relating to notice of appeal to the District Court from decisions of the Board of County Commissioners in matters pertaining to assessment and taxation.**

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

§ 1. That Section 3299 of the Compiled Laws of North Dakota for the year 1913 be and the same is hereby amended and re-enacted so as to read as follows:

§ 3299. Such appeal must be taken within thirty (30) days after the decision of the board by serving a written notice of appeal upon one (1) member of the board, and in case of appeals from decisions of said board relating to tax refunds, tax abatements or other matters relating to taxation, notice of appeal shall also be served by registered mail upon the State Tax Commissioner. The County Auditor shall, upon the filing of the undertaking and the payment of his fees as hereinafter provided, make out a complete transcript of the proceedings of such board relating to the matter in controversy, and shall deliver the same to the Clerk of the District Court.

Approved March 9, 1931.

### CHAPTER 117

(S. B. No. 248—Committee on Delayed Bills.)

#### COMPENSATION AND EXPENSES COUNTY COMMISSIONERS

**An Act amending Section 3533 of the 1925 Supplement to Compiled Laws relating to the compensation and expenses of members of Boards of County Commissioners.**

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

§ 1. County Commissioners shall be allowed for the time they are necessarily employed in the duties of their office including the time necessarily consumed in traveling to and from their homes to attend the meetings of the board, the sum of \$6.00 per day, and their actual traveling expenses, which expenses shall not exceed ten cents (10c) per mile necessarily traveled while performing their duties in attending meetings of the board or when engaged in other official duties, the same to be paid out of the general fund of the county. Provided, however, that in counties having a population of 9000 or

less, the total compensation and expenses received by any member of a Board of County Commissioners shall not exceed Eight Hundred Dollars (\$800.00) in any one year.

The office hours of Boards of County Commissioners shall be not less than from nine to twelve A. M. and two to five P. M., during regular or special sessions held by such boards.

Approved March 11, 1931.

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## CHAPTER 118

(H. B. No. 126—Holte, of Dickey Co.)

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### COUNTY SUPERINTENDENT CONTINGENT FUND

An Act to amend and re-enact Section 1377 of the Compiled Laws of 1913, and to provide for the creation of a County Superintendent's Contingent Fund for use by the County Superintendent for the payment of the expenses of district teachers' meetings, annual school officers' meetings, play days, industrial contests, county commencement exercises, and other special and incidental expenses of a like nature, and to repeal Sections 1391, 1393, 1394 and 1395 of the Compiled Laws of 1913.

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

§ 1. Section 1377, Compiled Laws 1913, is hereby amended and re-enacted to read as follows:

§ 1377. One dollar of each fee collected by the County Superintendent from the applicants for elementary certificates, and all fees received for the renewal of elementary certificates, shall be paid into the County Superintendent's Contingent Fund to be used as hereinafter provided, and one dollar of each fee from applicants for elementary certificates shall be forwarded to the State Superintendent of Public Instruction who shall deposit all fees so received in the state treasury as a fund from which to pay the clerical help, per diem and all other expenses incurred by him in connection with teachers' examinations, and to aid in the establishment and maintenance of teachers' reading circles and in the professionalizing of teaching in such other ways as to the State Superintendent may seem advisable.

§ 2. The County Superintendent of Schools shall each year prepare a statement which shall certify to the total number of schools and separate departments in graded and high schools in his county in which school has been taught not less than four months during the preceding school year, which statement shall be transmitted to the County Auditor at the time of the transmittal of the estimate of the amounts of moneys required for the proper maintenance, extension or improvement of his office required by the budget law, and shall include in his said estimate a sum, not to exceed two dollars for each school and separate department so certified, and not to exceed

his probable needs for the purposes hereinafter mentioned, for County Superintendent's Contingent Fund, and such amount shall be appropriated by the Board of County Commissioners for such purpose. At the closing of the auditor's books on June thirtieth, the balance to the credit of such County Superintendent's Contingent Fund shall revert to and become a part of the general unappropriated balance in the County Treasury.

§ 3. The County Superintendent's Contingent Fund shall be used by the County Superintendent for the payment of expenses of district teachers' meetings, annual school officers' meetings, play days, industrial contests, county commencement exercises, and other special and incidental expenses of a like nature.

§ 4. REPEAL.] Section 1391, Section 1393, Section 1394, and Section 1395, Compiled Laws 1913, and all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 10, 1931.

#### CHAPTER 119

(H. B. No. 32—Twete.)

#### EXPENSES COUNTY SUPERINTENDENT OF SCHOOLS

An Act to amend and re-enact Section 3551a3 of the Supplement to the Compiled Laws of 1913, relating to expenses of County Superintendent of Schools.

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

§ 1. AMENDMENT.] Section 3551a3 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 3551a3. EXPENSES OF COUNTY SUPERINTENDENT OF SCHOOLS. The County Superintendent of Schools shall receive 12½c per mile for the distance actually and necessarily traveled by him or his field deputy in the discharge of their duties within the county and 10c per mile when in attendance at meetings of county superintendents when same are called by the State Superintendent of Public Instruction as provided by law. He shall at the end of every three months make and furnish to the County Commissioners an itemized statement, subscribed and sworn to, of the distance so traveled in the discharge of his duties, which shall be audited and ordered paid by the Board of County Commissioners.

§ 2. REPEAL.] All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 2, 1931.



## CHAPTER 120

(H. B. No. 161—Thompson by Request.)

**DUTIES COUNTY AUDITOR, TAX SALE CERTIFICATES; ISSUE  
AND VALIDATION TAX DEEDS**

An Act to authorize and direct the County Auditor to sign and issue certificates of tax sale as of the date when the real estate therein described was sold for delinquent taxes; authorizing and directing the County Auditor to issue tax deed when expiration of period of redemption has been regularly noticed, and validating such tax deeds unless an action is commenced on or before July 1st, 1931, repealing all acts and parts of acts in conflict herewith and declaring an emergency.

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

§ 1. In the case of any sale of real property for delinquent taxes thereon made and consummated more than three (3) years prior to January 1st, 1931, where the property sold was struck off to the county, pursuant to the provisions of the statute, in such case made and provided, and where the County Auditor, through error, omission, inadvertence, or neglect, failed to affix his signature and seal to such certificate of tax sale, such county auditor, or his duly qualified successor, is hereby empowered, authorized and directed to date, sign, and affix his official seal onto any such certificate as of the date of sale and such tax sale certificate shall have the same force and effect as though duly and regularly signed and sealed on the date when the property described therein was sold for taxes.

§ 2. Any tax deed issued prior to January 1st, 1931 pursuant to a regularly conducted tax sale, and after the expiration of three (3) years from the date of such sale, and after notice of expiration of period of redemption had been regularly and duly given, shall be and the same is hereby, declared valid, binding and of full force and effect and incontestable, notwithstanding the failure, neglect, or omission of the County Auditor to affix his official signature and seal to the certificate of tax sale on the date when the real estate described therein was sold for delinquent taxes; unless any person, firm or corporation claiming an interest therein or title thereto shall on or before twelve o'clock noon, July 1, 1931 commence an action to set aside such tax deed and to determine such claim, title or interest therein.

§ 3. EMERGENCY.] An emergency is hereby declared to exist in that in a large number of cases various County Auditors have, through inadvertence, omission, or neglect, failed to sign certificates of tax sale after the property sold was struck off to the county, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1931.

## CHAPTER 121

(H. B. No. 195—Cox.)

**TRANSFER REAL PROPERTY, DUTY COUNTY AUDITOR**

An Act to amend and re-enact Section 2212, of the Supplement to the Compiled Laws of 1913, of the State of North Dakota, as amended by Chapter 271 of the Laws of 1927, relating to the duty of the county auditor and requirements of the transfer of real property as to taxes, deeds and other instruments of conveyance, and declaring an emergency exists.

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

§ 1. AMENDMENT.] That Section 2212 of the Supplement to the Compiled Laws of 1913 of the State of North Dakota, as amended by Chapter 271 of the Laws of 1927, be amended and re-enacted to read as follows:

§ 2212. Whenever any deed or patent is presented to the County Auditor for transfer, he shall ascertain from the books and records in the offices of the County Treasurer and County Auditor if there be delinquent taxes or special assessments on the land described therein, or if it has been sold for taxes and if there are delinquent taxes or delinquent special assessments or installments of special assessments due thereon, he shall certify to the same, and when the receipt of the County Treasurer shall be produced for the said delinquent taxes or special assessments or installments of special assessments that may be in the hands of the County Treasurer or County Auditor for collection, the County Auditor shall enter on every deed, or patent so transferred over his official signature, "Delinquent taxes and special assessments or installments of special assessments, paid and transfer entered", or if the land described has been sold for taxes, "paid by sale of the land described within", or if it is an instrument entitled to record without regard to taxes "transfer entered", and unless such entry is made upon any deed or patent, the Register of Deeds shall refuse to receive or record the same; provided, the sheriff's or referee's certificates of sale on execution or foreclosures of mortgages may be recorded by the Register of Deeds without any such certificate from the County Auditor; and provided further that any deed conveying to the state or any political subdivision or municipal corporation thereof, any right of way for use as a public street, alley or highway, shall be entitled to record without regard to taxes, unless the land conveyed has been sold for taxes prior to the taking effect of this act. The County Auditor shall keep a record of such transfers in a book kept for that purpose, showing the names of the grantor and grantee, a description of the property and the date of the transfer, and shall collect twenty-five cents for each certificate, from the person or persons presenting the same for certification, and said

money so collected shall be by him paid into the office of the County Treasurer at the end of each month and be placed to the credit of the general funds of the county.

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

Approved March 9, 1931.

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## COURTS

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### CHAPTER 122

(S. B. No. 120—Cain, Sathre, Matthaei and Fowler.)

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#### ADMINISTRATION TRUST ESTATES IN DISTRICT COURT

An Act providing for the supervision of the administration of trust estates in the District Court and for the adoption of rules of procedure in relation thereto.

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

§ 1. SUPERVISION OF TRUSTS.] The District Court of the County where trust property or some portion thereof is situated, other than property held by an executor, administrator, guardian, or assignee or trustee for the benefit of creditors, shall have jurisdiction to supervise the administration, by the trustee, of such trust property; and reference in this act to trusts, trustees and trust property shall be construed as in this section defined. In case such property is situated in more than one county the District Court of the county to which application is first made shall supervise the administration of such property. The procedure shall be by special proceedings which may include proceedings ancillary to like proceedings of a foreign court when such court has acquired prior and original jurisdiction over the person of the trustee and a part only of the trust property is within this state.

§ 2. ADOPTION OF COURT RULES.] The Supreme Court shall on or before the 1st day of July, 1931, establish rules of practice for the District Court in its supervision of the administration of trust properties over which it has jurisdiction, and prescribe the notice that shall be given of proceedings in the District Court relating to such trusts. Such rules shall require every trustee holding any property in this state in trust for the benefit of another otherwise than as executor, administrator, guardian, or assignee or trustee for the benefit of creditors, to file at stated intervals itemized accounts of his or its receipts and disbursements as such trustee, and reports of the sale, mortgaging, leasing or other disposition of trust property and investment of trust funds; and determine the procedure by which

persons interested in such trust may compel the filing of such accounts or the performance of his or its duty by a trustee; to regulate the practice and procedure in the matter of filing such accounts, reports or petitions and the securing of judicial approval thereof by orders of the District Court and the taking of appeals therefrom; and prescribe the procedure for filling any vacancy in the trust administration, for the removal of such trustee, and the appointment of his or its successor; and shall prescribe the practice and procedure for the adoption by the District Court of the orders and decrees of a foreign court, applicable by ancillary proceedings to trust property within this state, and provide the practice and procedure in respect of any other matter involved in the supervision of the administration of such trust and the exercise by courts of equity of supervisory jurisdiction over the same. The Supreme Court may at any time thereafter revise such rules and make such amendments thereto or such further rules as it may deem necessary to carry out the objects of this act; and the clerk of the Supreme Court shall, after the adoption of such rules or amendments, transmit a copy thereof to the clerk of the District Court of each county in the state who shall thereupon file and record the same as a public record. All rules so established shall have the force and effect of a statute and be binding upon all the courts having jurisdiction of such trust.

§ 3. PROCEEDINGS, HOW COMMENCED.] Any trustee, beneficiary or person interested in such trust may file with the clerk of the District Court a petition that the administration of the trust shall be therein supervised. Said petition shall be in form and substance as by court rules provided. Notice of hearing thereon shall be as by this act provided and such further or additional notice as by court rules may be prescribed, and the court, upon hearing, may enter its order that all further proceedings in supervision of the administration of such trust shall be had in the said court; provided, that the District Court of the county where any portion of the trust property is located, may, upon petition of any interested person, and upon like notice, adopt and confirm as the act of such District Court any order or decree of a foreign court with respect to the sale, mortgaging, lease or other disposition of real property of a trust within this State.

§ 4. TRIAL, CORRECTION OF MISTAKES, RELIEF FROM DEFAULT.] Any person interested in the trust may file written objection to any account, report or petition of such trustee before or at the time of hearing thereof. Any order of the court in such proceeding may be modified or vacated by the court on its own motion or on notice, to correct clerical errors or mistakes of calculation apparent on the face of the record; and, within six months after the entry of any order, the District Court may relieve any interested person from the same where such order has been taken against him through his mistake, inadvertence, surprise or excusable neglect.

§ 5. EFFECT OF ORDERS OF DISTRICT COURT.] Every order entered in such proceedings, upon due notice as herein and by the rules of the Supreme Court prescribed, shall have the force and effect of judgment, and, subject to appeal as in this act provided, and the provisions of Section 4 of this act, shall be binding upon all parties in interest resident within or without the state, known or unknown, ascertained and in being or otherwise; provided, that no order approving a trustee's account or directing or approving the disposition or investment of trust property or funds shall be entered except on hearing and after service of notice by mailing copy of the same at least ten days before the hearing to all beneficiaries of the trust at their postoffice addresses, respectively, as last known to the trustee, and, where there are or may be beneficiaries or interested persons, unknown or unascertained or resident without the state or whose postoffice address is unknown to the trustee, the notice as to such persons shall be served by publication of the same in a newspaper of the county at least once and ten days prior to the hearing; and provided, that the appearance of any interested person at the hearing, in person or by attorney, or by the guardian of a minor or person incompetent, shall render prior notice to him unnecessary; and any such person or guardian may waive the notice herein provided by a written waiver filed with the clerk of the District Court.

§ 6. REPRESENTATION OF MINORS AND INCOMPETENTS.] In such special proceedings the District Court may, in its discretion, appoint a special guardian or guardian ad litem for any minor or person of unsound mind; provided, that it shall be the duty of and within the judicial power of the District Court at all hearings to represent all minors or persons incompetent who may not appear by guardian, and all orders of the District Court shall be deemed to have been made in lawful representation of such persons and of persons not in being, individually or as a class.

§ 7. POWER OF TRUSTEE.] Every act of the trustee in contravention of the terms of the trust shall be absolutely void, unless the District Court, having jurisdiction of the supervision of the administration of such trust shall, by order, on notice and hearing as hereinbefore provided, authorize any such trustee to sell, mortgage, pledge, lease or otherwise dispose of or invest, trust property in such manner as may best accomplish the object and purpose of the trust, when it is made to appear to the satisfaction of the court that such order is necessary and for the best interest or benefit of the trust estate, or person or persons beneficially interested therein, or who may thereafter acquire an interest in the trust, and where it is further established to the satisfaction of the court that the trust instrument is lacking in adequate directions as to the disposition or investment of trust property, or that strict compliance with the terms of such instrument will tend to destroy the trust estate or create losses

of principal or income. A single hearing may be had upon, and notice thereof may include, any number of accounts, reports or petitions previously filed in the proceeding by the trustee or other interested persons.

§ 8. WHEN COURT ORDER REQUIRED.] Except as by Section 7 of this act or by statute specifically required, as in Sections 6307 or 6283 of the Compiled Laws, no judgment or order of the court shall be necessary to render effective and valid any act of the trustee lawfully performed within the terms of the trust. The intentment of this act shall be taken to provide a speedy and convenient means to apprise interested persons of the progress of the trust administration; to bring the same before the court for its direction of the trustee; and provide for prompt hearing upon and adjudication of the claims and objections of interested persons, and timely and conclusive approval or confirmation of the acts, accounts and reports of the trustee.

§ 9. APPEALS.] Any trustee, beneficiary or person interested in such trust, feeling aggrieved by any order of the District Court, made in such proceedings, may appeal from the same or any part thereof to the Supreme Court within six months after the filing of such order with the clerk of the District Court. Such appeal shall be taken in such manner, and upon such record and notice, as the Supreme Court may by rule provide, and a single appeal may include any number of orders made appealable by this section.

Approved March 11, 1931.

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## CHAPTER 123

(S. B. No. 181—Fowler.)

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### COMMITMENT DEPENDENT, NEGLECTED OR DELINQUENT FEEBLE MINDED CHILD

An Act to authorize the juvenile court to commit to the Institution for the Feeble Minded any feeble minded, dependent, neglected or delinquent child.

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

§ 1. When in any proceeding instituted in Juvenile Court it shall appear to the satisfaction of the court that the child involved in the proceeding is dependent, neglected or delinquent and is also feeble-minded, the said Juvenile Court shall have authority to make an order committing such child to the Institution for the Feeble-minded. The procedure provided in this act shall not be exclusive, but in addition to the mode now provided by law for commitment of feeble-minded children to the Institution for the Feeble-minded. In any proceeding involving a dependent, neglected or delinquent child, the Juvenile Court, instead of determining whether such child is

feeble-minded, may direct that proceedings be had before the commissioners of insanity of the proper county for determination of such question.

Approved March 11, 1931.

#### CHAPTER 124

(S. B. No. 42—Whitman by Request.)

##### COSTS CIVIL ACTION COUNTY COURT

An Act to amend and re-enact Section 8957, Supplement to the Compiled Laws of 1913.

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

§ 1. AMENDMENT.] Section 8957 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8957. Costs.] When the prevailing party in a civil action has appeared therein by an attorney duly authorized to practice in the Courts of this State, costs and disbursements shall be allowed and taxed as provided by the Code of Civil Procedure and all the provisions of Chap. 14 of the Code of Civil Procedure shall be applicable to civil actions tried or commenced in the County Courts of this State.

Approved March 9, 1931.

#### CHAPTER 125

(H. B. No. 261—Halvorson.)

##### REGULARLY CALLED JURY TO SERVE IN ANY CASES PENDING

An Act authorizing the District and County Courts of the County in which there is a County Court of Increased Jurisdiction to make use of the jury regularly called and selected for service in either court in the trial of any cases then pending and ready for trial by a jury in said court and vice versa.

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

§ 1. That in all Counties wherein there is a County Court having increased jurisdiction, and a jury has been ordered, drawn and summoned for the trial of cases in said court pursuant to the provisions of Article 12 of the Political Code of North Dakota for the year 1913, and Acts amendatory thereof, by either the District Court or the County Court in and for said County; and there shall be a term of Court duly and regularly called or held in one of said courts in which the said jury or any jury has not been so ordered, drawn and summoned and while the said jury is in attendance in the court by which summoned at the election of the court wherein no

jury has been so summoned, and upon its Order, the jurors so summoned, selected and in attendance in the other court may be used by the court not calling the same in the trial of any and all actions and proceedings, civil and criminal, without a new jury being ordered, selected and summoned pursuant to the provisions of the law of this State with reference to the ordering, selecting and summoning of juries.

Approved March 11, 1931.

CHAPTER 126  
(H. B. No. 231—Cox.)

DUTIES SUPREME COURT REPORTER AND STATE LAW  
LIBRARIAN

An Act to amend and re-enact Section 7 of Chapter 211 of the Session Laws of the State of North Dakota for the year 1919 (Section 737a7, Supplement to the Compiled Laws of 1913) relating to the duties of the Supreme Court Reporter and State Law Librarian and the distribution and sale of Supreme Court Reports, and prescribing the purchase thereof by the different counties, and by the Board of Administration.

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

§ 1. AMENDMENT.] That Section 7 of Chapter 211 of the Session Laws of the State of North Dakota for 1919 (Section 737a7, Supplement to the Compiled Laws of 1913) be and the same hereby is amended and re-enacted to read as follows:

§ 737a7. Such Supreme Court Reporter shall have power and authority subject to the direction and control of the Supreme Court and under the rules and regulations as it may prescribe to sell and dispose of copies of such official reports at not less than the cost thereof to the public and to each county in this State, and it shall be the duty of every county in this State through its County Auditor to receive at least four copies of such official report and to make payment of the same at the rate prescribed by the Supreme Court Reporter. It shall also be the duty of the Board of Administration to purchase and receive fifty copies of such official reports. The Board of Administration shall pay for the reports so received and purchased by it at the same rate paid by the different counties; and it shall cause the reports so purchased to be transmitted and delivered to the University of North Dakota for use of the library of the Law Department of such University. Likewise, such Reporter shall distribute such official reports to each Judge of the Supreme Court and each of the Judges of the District Court in this State, the United States Attorney for North Dakota and Attorney General for the State, the Librarian of Congress of the United States, the Librarian of the Supreme Court of the United States, the Attorney General of the United States and the Governor of this State, and



shall further be empowered to make exchanges of such official reports for the official reports of the Courts of other states. All money received from the sale of such official reports shall be paid to such Reporter and shall be covered by him monthly into the State Treasury to be kept in a special fund to be known as the Supreme Court Reporter Fund. All disbursements shall be made in connection with publication of such official reports and to such Fund shall be covered and kept the Legislative appropriation made for the printing, publication and distribution of such official reports.

Approved March 9, 1931.

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## CRIMES AND PUNISHMENTS

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### CHAPTER 127

(S. B. No. 245—Delayed Bills Committee.)

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#### DIVULGING TELEGRAPHIC OR TELEPHONE MESSAGES

An Act to amend and re-enact Section 10078 of the Compiled Laws of 1913.

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

§ 1. AMENDMENT.] Section 10078 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 10078. DIVULGING TELEGRAPHIC OR TELEPHONE MESSAGES.] Every person who shall wrongfully obtain, or attempt to obtain, any knowledge of a telegraphic or telephonic message, by connivance with a Clerk, Operator, Messenger or other employee of a telegraph or telephone company, and every Clerk, Operator, Messenger or other employee who shall wilfully divulge to any but the person for whom it was intended, the contents of any telephonic message or any telegraphic message entrusted to him for transmission or delivery, or the nature thereof, or who shall wilfully refuse or neglect duly to transmit or deliver any such message, shall be punished by imprisonment in the County Jail for not more than six months, or by a fine of not more than \$1000.00, or by both.

§ 2. REPEAL.] All acts or parts of acts in conflict with this Act, are hereby repealed.

Approved March 11, 1931.

CHAPTER 128  
(S. B. No. 3—Bond.)

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DRAWING CHECK WITHOUT FUNDS

An Act to amend and re-enact Section 9971a1 and Section 9971a2 of the Supplement to the Compiled Laws of 1913 relating to the drawing of a bank check or draft without funds in the bank to protect the same, and making the same a misdemeanor; providing a penalty therefor; and repealing Section 9971a3 of the Supplement to the Compiled Laws of 1913.

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

§ 1. AMENDMENT.] That Section 9971a1 of the Supplement to the Compiled Laws of 1913, be and the same is hereby amended and re-enacted to read as follows:

§ 9971a1. DRAWING CHECK OR DRAFT WITHOUT SUFFICIENT FUNDS OR CREDIT; PENALTY.] Any person, firm, company, copartnership or corporation who makes or draws or utters or delivers to any person any check or draft upon a bank, banker or depository for the payment of money, and at the time of such making, drawing, uttering or delivery, has not sufficient funds in or credit with such bank, banker or depository to meet such check or draft in full upon its presentation, shall be punishable by a fine of not to exceed \$100.00 or by imprisonment in the county jail for not to exceed 30 days, or by both such fine and imprisonment.

§ 2. AMENDMENT.] That Section 9971a2 of the Supplement to the Compiled Laws of 1913, be and the same is hereby amended and re-enacted to read as follows:

§ 9971a2. MEANING OF TERM "CREDIT".] The word "credit" as used herein shall be construed to be an arrangement or understanding with the bank, banker or depository for the payment of such check or draft.

§ 3. REPEAL.] That Section 9971a3 of the Supplement to the Compiled Laws of 1913, be and the same is hereby repealed.

Approved March 10, 1931.

CHAPTER 129  
(S. B. No. 235—Lynch.)

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**MAXIMUM PUNISHMENT PERSONS CONVICTED OF TWO OR MORE FELONIES**

An Act to amend and re-enact Section 4 of Chapter 126 of the Session Laws of 1927, providing maximum punishments for persons convicted of felony who have been convicted of two or more felonies in any state of the United States, and prescribing procedure in such cases.

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

§ 1. AMENDMENT.] Section 4 of Chapter 126 of the Session Laws of 1927, is hereby amended and re-enacted to read as follows:

§ 4. Provided that no crime shall be considered a felony within this act by reason of a greater punishment attaching to a second or successive offense than is prescribed for a first offense.

Approved March 11, 1931.

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CHAPTER 130  
(S. B. No. 41—Whitman by Request.)

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**PUNISHMENT OF FORGERY**

An Act to amend and re-enact Section 9905 of the Compiled Laws of North Dakota for 1913.

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

§ 1. AMENDMENT.] Section 9905 of the Compiled Laws of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 9905. PUNISHMENT OF FORGERY. Forgery is punishable by imprisonment as follows: Forgery in the first, second, third and fourth degrees by imprisonment in the county jail not exceeding one year or by imprisonment in the penitentiary not exceeding ten years.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act, are hereby repealed.

Approved January 31, 1931.

## CHAPTER 131

(S. B. No. 227—Cain and Matthaei.)

## SUSPENSION, MODIFICATION AND REVOCATION OF SENTENCES

An Act to amend and re-enact Section 10959 of the Compiled Laws of 1913, relating to suspension, modification and revocation of sentences.

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

§ 1. AMENDMENT.] Section 10959 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 10959. COURT MAY SUSPEND OR MODIFY SENTENCE, WHEN REVOCATION OF SUSPENSION ORDER.] In all prosecutions for misdemeanors where the defendant has been found guilty, and where the court or magistrate has power to sentence such defendant to the county jail, and it appears that the defendant has never before been imprisoned for crime, either in this state or elsewhere (but detention in an institution for juvenile delinquents shall not be considered imprisonment), and where it shall appear to the satisfaction of the court or magistrate that the character of the defendant and circumstances of the case are such that such defendant is not likely again to engage in an offensive course of conduct, and where it appears that the public welfare does not demand or require that the defendant shall suffer the penalty imposed by law, said court or magistrate may suspend the execution of the sentence or may modify or alter the sentence imposed in such manner as to the court or magistrate, in view of all the circumstances, seems just and right; provided, however, where a Judge has suspended a sentence, no order for recommitment of the person whose sentence has been suspended shall be made after the period of eighteen months has elapsed after the maximum period of time for which such person might have been sentenced.

Approved March 11, 1931.

## CHAPTER 132

(S. B. No. 151—Committee on Banks and Banking.)  
By Request of the Voluntary Banking Code Commission.

## SLANDER AND LIBEL OF ANNUITY, SAFE DEPOSIT, SURETY AND TRUST COMPANIES

An Act defining the crime of slander and libel of annuity, safe deposit, surety and trust companies, and fixing the penalty therefor.

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

§ 1. SLANDER AND LIBEL. MISDEMEANOR.] Any person who shall wilfully and maliciously make, circulate or transmit to another

or others, any false statement, rumor or suggestion, written, printed, or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any annuity, safe deposit, surety, or trust company, now existing under the laws of this State or hereafter organized, or who shall counsel, aid, procure or induce another to start, transmit or circulate false statement, or rumor, shall be guilty of a misdemeanor, and in addition thereto shall be liable in damages to such corporation, or the receiver thereof, to be recovered in a civil action brought for that purpose.

Approved March 11, 1931.

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CHAPTER 133  
(S. B. No. 190—Brunsdale.)

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PROHIBITING MANUFACTURE AND USE OF SLUGS,  
TOKENS, ETC.

An Act to constitute the operation or the attempt to operate any automatic vending machine, coin-box telephone, slot machine, or other like receptacle by means of a slug, token, device, or trick, or the manufacture and disposition of any such slug or device, a misdemeanor.

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

§ 1. Any person who shall operate, or cause to be operated, or who shall attempt to operate, or attempt to cause to be operated any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, by means of a slug or any false, counterfeited, mutilated, sweated or foreign coin, or by any means, method, trick or device whatsoever not lawfully authorized by the owner, lessee or licensee of such machine, coin-box telephone or receptacle, or who shall take, obtain or receive from or in connection with any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, any goods, wares, merchandise, gas, electric current, article of value, or the use or enjoyment of any telephone or telegraph facilities or service, or of any musical instrument, phonograph or other property, without depositing in and surrendering to such machine, coin-box telephone or receptacle lawful coin of the United States of America to the amount required therefor by the owner, lessee or licensee of such machine, coin-box telephone or receptacle, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five nor more than one hundred dollars or by imprisonment in the county jail not to exceed thirty days, or by both such fine and imprisonment in the discretion of the court.

§ 2. Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of any automatic vending machine, slot machine, coin-box telephone or other receptacle, depository or contrivance, designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, or who, knowing that the same is intended for unlawful use, shall manufacture for sale, or sell, or give away any slug, device or substance whatsoever intended or calculated to be placed or deposited in any such automatic vending machine, slot machine, coin-box telephone or other such receptacle, depository or contrivance, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five nor more than one hundred dollars or by imprisonment in the county jail not to exceed thirty days, or by both such fine and imprisonment, in the discretion of the court.

Approved March 11, 1931.

CHAPTER 134  
(H. B. No. 293—Baseflug.)

**STATE SUPERINTENDENT OF CRIMINAL IDENTIFICATION**

An Act amending and re-enacting Sections 1, 2, 4, and 12 of Chapter 116, Session Laws of North Dakota for 1929, providing for the appointment of a State Superintendent of Criminal Identification and two assistant superintendents; defining their powers and duties and providing for the payment of salaries and expenses.

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

§ 1. AMENDMENT.] That Section 1, Chapter 116 of the Laws of 1929, be and is hereby amended and re-enacted to read as follows:

§ 1. Within thirty days prior to July 1st and each odd numbered year, there shall be appointed by the Governor an officer who shall be designated and known as State Superintendent of Criminal Identification, whose term of office shall begin on July 1st of each odd numbered year and shall be for two years or until his successor is appointed and qualified. Such officer shall be appointed without regard to political affiliation and shall be a person having at least four years experience in the work of identifying and securing the conviction of criminals. Such superintendent shall receive an annual salary of Three Thousand Dollars (\$3000.00), payable monthly, and such salary together with the necessary expenses for clerk hire, office furniture, equipment, supplies, salaries of two assistants and expense of travel, when necessary, shall be paid out of the Criminal Bureau Fund. The Board of Administration is hereby directed to cause to be transferred to the criminal bureau fund out of the twine and cordage operating fund as now created and established, the sum of Ten Thousand Dollars (\$10,000.00) per year which transfer shall be

made in quarterly installments of Twenty-five Hundred Dollars (\$2500.00) each on the first day of July, October, January and April of each year.

§ 2. AMENDMENT.] That Section 2 of Chapter 116 of the Laws of 1929 is hereby amended and re-enacted to read as follows:

§ 2. The Superintendent may appoint with the consent of the Governor, such clerical help as is necessarily required to the carrying out of the work of his office, as provided by law. He shall also appoint, with the approval of the Governor, two assistant superintendents, each at an annual salary of Twenty-four Hundred Dollars (\$2400.00). The Superintendent and assistant superintendents shall qualify by taking the oath of office as prescribed by the Constitution and shall give a bond in the sum of Five Thousand Dollars (\$5000.00), for the faithful performance of their duties. The office of the Superintendent shall be located at the State Penitentiary near the City of Bismarck. It shall be the duty of the Superintendent and he is hereby authorized and empowered to provide such necessary equipment, furniture, apparatus and appliances as may be required in addition to that now available for the effective collecting, filing and preservation of finger prints and other records respecting the identification of criminals and the keeping of proper records thereof.

§ 3. AMENDMENT.] That Section 4 of Chapter 116 of the Laws of 1929 is hereby amended and re-enacted to read as follows:

§ 4. The Superintendent and his assistants shall cooperate with and assist the Criminal Bureau of the Department of Justice at Washington, D. C., and all judges, state's attorneys, sheriffs, chiefs of police and all other law enforcement officers of the state and of all other states, and of the Federal Government, in the establishment of a complete system of criminal identification and shall file for record the finger print impressions of all persons confined in any penitentiary or jail, when such person confined in said penitentiary or jail is suspected of having committed any felony or of being a fugitive from justice, and such other information as they may from time to time receive from the law enforcement officers of this state and other states, and of the Federal Government. It is specifically made the duty of such superintendent and his assistants to cooperate with the state's attorneys, sheriffs, constables, marshals, police and other peace officers in the State, in the detection of the following felonies committed within the State, to-wit: Treason, murder, manslaughter, robbery, burglary, grand larceny, arson, assault with intent to kill, assault with a deadly weapon, rape, incest, sodomy, abortion, bribery, escaping or assisting or aiding persons in escaping from a penitentiary, embezzlement, forgery, perjury, kidnapping, maiming, extortion, carrying concealed or deadly weapons without lawful authority therefor, and larceny of poultry and livestock.

The Superintendent shall cooperate with such officials in the apprehension and conviction of criminals, within and without the state, believed to be guilty of such felonies committed within the state. The Superintendent and his assistants shall under the direction of the Attorney General, conduct such investigation throughout the state as may be necessary to apprehend and convict persons guilty of such felonies. The Superintendent and assistant superintendents are hereby authorized and empowered to make arrests without warrants for all violations of law they may witness, and to serve and execute criminal warrants issued by proper authorities.

§ 4. AMENDMENT.] Section 12 of the Laws of 1929 is hereby amended and re-enacted to read as follows:

§ 12. Any and all moneys collected or received, including all rewards for the apprehension or conviction of any criminal earned and collected by the Superintendent or his assistants, or any employee in his office, shall be forthwith paid into the Criminal Bureau Fund.

Approved March 11, 1931.

## DEPOSITORS GUARANTY FUND

### CHAPTER 135

(H. B. No. 205—Aljets and Rulon.)

#### ADMINISTRATION DEPOSITORS' GUARANTY FUND

An Act relating to the administration of the Depositors' Guaranty Fund by the State Examiner, limiting the time within which claims may be presented against the Depositors' Guaranty Fund, providing for the distribution of unclaimed dividends, providing for the disposition of receiver's certificates held by said fund, and providing for a transfer of any balance in the appropriation made for the Depositors' Guaranty Fund Commission to the credit of the State Examiner.

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

§ 1. A depositor whose claim shall have heretofore been certified for approval by the Depositors' Guaranty Fund Commission may perfect such claim by filing with the State Examiner the proofs required by said Depositors' Guaranty Fund Commission at any time within six months after this act shall take effect, but in the event of the failure of such depositor to so perfect his claim within such period, such claim shall be forever barred as a claim against the said Depositors' Guaranty Fund.

§ 2. The State Examiner is hereby authorized to pass upon the sufficiency of the proofs so adduced, and his action in accepting or rejecting such proofs shall be final and conclusive.

§ 3. Any dividends heretofore declared by the Depositors' Guaranty Fund Commission which shall remain unclaimed for a



period of six months after this Act takes effect, and any dividend checks heretofore issued which shall not be presented for payment within said six months' period, shall be annulled and cancelled and no payment shall be made thereon; and the claims upon which such dividends were based shall be barred as claims against the Depositors' Guaranty Fund. The funds reserved for the payment of such dividends shall be covered into the general fund of the said Depositors' Guaranty Fund.

§ 4. After the dividends heretofore declared by the Depositors' Guaranty Fund Commission have been paid or the same have been barred as hereinbefore provided, the moneys then remaining in the Depositors' Guaranty Fund shall be disbursed pro rata by the State Examiner among depositors holding claims approved by said Depositors' Guaranty Fund Commission who have not theretofore received a dividend from the Guaranty Fund.

§ 5. The State Examiner in paying dividends from said Depositors' Guaranty Fund may make such distribution directly or through the receivers of the several banks, and said State Examiner is hereby authorized to make all necessary rules and regulations for the distribution of the said fund.

§ 6. In the event any depositor shall fail to present his certificate of indebtedness, or do any other act requisite for the payment of any dividend within six months after the same shall have been required by the State Examiner, or in the event any depositor shall fail to present for payment any dividend check hereafter issued to him within six months after the same shall have been issued, all rights of such depositor to such dividend shall cease and terminate, and no payment shall be made upon such dividend check; and the same shall be cancelled upon the records of the State Examiner and the funds represented thereby shall revert to the Depositors' Guaranty Fund.

§ 7. All right, title, and interest of the Depositors' Guaranty Fund, in and to all receiver's certificates which have heretofore been assigned or issued to said Depositors' Guaranty Fund, shall inure to the benefit of the holder of the certificate of indebtedness issued by Depositors' Guaranty Fund Commission upon the claim represented by such receiver's certificate. All such receiver's certificates, issued upon claims against banks which are still in process of liquidation, shall be, by the State Examiner, surrendered to the receiver of such bank, together with a certificate showing the name and address of the holder of the respective certificates of indebtedness as shown by the records in his office, and the receiver of said bank may thereafter pay all dividends payable by him to the holder of such certificate of indebtedness. The person, shown by the certificate of the State Examiner to be the owner of such certificate of indebtedness, shall be deemed the owner thereof until proof to the contrary shall be made, in accordance with the rules of such receiver, and the court having jurisdiction thereof.

§ 8. Any claims of depositors which had been presented to the receiver of a closed bank before December 1, 1930 and allowed by such receiver, but upon which final action had not been taken by the Depositors' Guaranty Fund Commission may be heard and determined by the State Examiner, and his action thereon shall be final. The State Examiner may make rules and regulations for the hearing and determination of such claims.

§ 9. The State Examiner shall have authority to issue certificates of indebtedness in lieu of those which have heretofore been issued, provided no additional liability is created thereby, and he may prescribe rules and regulations in connection therewith.

§ 10. The State Examiner may employ such assistance, as may be necessary, to carry out the provisions of this act.

§ 11. Any balance, remaining in the biennial appropriation made by the Twenty-first Legislative Assembly for the benefit of the Depositors' Guaranty Fund Commission, is hereby transferred to the State Examiner for his use in carrying out the provisions of this act.

§ 12. In the event such appropriation shall be insufficient to meet the expenses of administering such Fund and carrying out the provisions of this act, the State Examiner may pay such expenses out of the Guaranty Fund, but all expenses so paid shall be audited as are other expenses.

§ 13. Any moneys which shall remain in the Guaranty Fund after the payment of the expenses of administration, and after the payment of said dividends has been completed, either by reason of unclaimed dividends or otherwise, shall be transferred into the general fund of the state.

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

Approved March 9, 1931.

## ELECTIONS

### CHAPTER 136

(H. B. No. 156—Halvorson.)

#### ABSENT VOTERS BALLOT

An act to amend Sections 992, 993 and 996 of the Compiled Laws of North Dakota of 1913 and Repealing Section 995 of the Compiled Laws of North Dakota of 1913; to provide a method of voting at general or primary elections by absent voters.

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

§ 1. AMENDMENT.] Section 992 of the Compiled Laws of North Dakota of 1913 is hereby amended and re-enacted to read as follows:

§ 992. ABSENT VOTER. WHO MAY VOTE.] Any qualified elector of this State having complied with the laws in regard to registration, who is absent from the county in which he is an elector on the day of holding any General or Primary election, or who by reason of physical disability is unable to attend at the polling place in his precinct to vote at any such election, may vote an absent voter's ballot in the manner prescribed in Article 16 of Chapter 11 of the Political Code of the Compiled Laws of North Dakota of 1913.

§ 2. AMENDMENT.] Section 993 of the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 993. APPLICATION FOR BALLOTS, MADE WHEN.] At any time within thirty days next preceding such election, any voter expecting to be absent on the day of election from the county in which his voting precinct is situated, or who by reason of physical disability is unable to attend at the polling place in his precinct to vote at such election, may procure from the County Auditor of such county an official absent voter's ballot to be voted at such election.

§ 3. AMENDMENT.] Section 996 of the Compiled Laws of North Dakota of 1913 is hereby amended and re-enacted to read as follows:

§ 996. PROCUREMENT OF BALLOT.] Such absent voter's ballot may be procured by an absent voter by a personal application or by the application of an agent, such application may be made either verbally or in writing.

§ 4. REPEAL.] Section 995 of the Compiled Laws of North Dakota of 1913 is hereby expressly repealed together with all Acts and parts of Acts in conflict herewith.

Approved March 10, 1931.

#### CHAPTER 137

(S. B. No. 93—Brunsdale.)

#### FILLING VACANCIES ON NO-PARTY BALLOT

An Act providing for the filling of vacancies of elective county officers, Superintendent of Schools, and County Commissioners on the no-party ballot.

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

§ 1. Whenever a vacancy shall exist on the no-party ballot in any county, or district within any county, by reason of the death of any person who was a candidate and was nominated at the Primary Election, or whenever a vacancy shall exist on the no-party ballot due to the failure of a candidate or candidates at the Primary Election to receive the number of votes required by Section 862a Supplement to the Compiled Laws of 1913, or whenever a vacancy shall exist on

the no-party ballot by the conviction of a candidate of a crime or offense involving moral turpitude, or due to the insanity or mental incompetency of any such candidate, then and in that event, such vacancy may be filled by filing with the County Auditor at least thirty days prior to the general election a petition in writing as provided for in Section 854, Supplement to the Compiled Laws of 1913 and acts amendatory thereof and supplemental thereto by such person or persons as desire to become a candidate or candidates for the election to the office for which a vacancy exists pursuant to the terms of this act. Provided, however, that no vacancy shall be deemed to exist under the provisions of this act if there is a candidate or candidates in number equal to the number of officers to be elected for such office.

Approved March 10, 1931.

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CHAPTER 138

(H. B. No. 98—Lynch.)

REPEAL PARTY REGISTRATION

An Act to repeal Sections 917, 918 and 919 of the Compiled Laws of North Dakota for the year 1913.

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

§ 1. REPEAL.] Sections 917, 918 and 919 of the Compiled Laws of North Dakota for the year 1913 are hereby repealed.

Approved March 2, 1931.

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CHAPTER 139

(S. B. No. 92—Brunsdale.)

PRIMARY ELECTION PETITION COUNTY OFFICERS, COUNTY COMMISSIONERS AND LEGISLATIVE CANDIDATES

An Act to amend and re-enact Section 854, Supplement to the Compiled Laws of 1913, relating to the obtaining and filing of petitions for county officers, county commissioners and legislative candidates and filing fees therefor.

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

§ 1. AMENDMENT.] That Section 854, Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 854. Every candidate for a county or district office shall not more than forty days nor less than thirty days and before four o'clock P. M. of the thirtieth day prior to any primary election present to the County Auditor a petition giving his name, post office address, the title of the office to which he aspires, and if such office is under party designation, then the petition shall state the party represented by the candidate. Such petition shall contain the names of not less

than two per cent and not more than five per cent of the total vote cast for said office at the last general election if the office be under no party designation, and if under party designation, then the same percentage shall be applied to the total vote cast for the candidate of the party represented for the same position at the last general election. If no candidate was elected or votes cast for an office at the last general election, a petition shall be deemed sufficient if it has the number of signers equal to the number of the foregoing percentage requirements applied to the total average vote cast for the offices of Sheriff, Superintendent of Schools and County Auditor at the last general election in such county or district as the case may be, such average to be arrived at by dividing the total vote cast for said offices in such county or district as the case may be by three. Such names appearing upon said petitions as provided for herein shall be procured from at least one-fifth of the election precincts of the county or district.

Each name on a petition shall be that of a qualified voter and if the office is under party designation, then such name shall be subscribed under the proper party heading. Each signer of a nomination paper shall sign but one such paper for the same office; he shall add his residence with the street number, if any, and the date of signing. Upon the receipt of such petition by the County Auditor and the payment to him of the filing fee of three dollars, (\$3.00), excepting candidates for county commissioners, district assessors, surveyors, coroner, county constables and county justices of the peace, who shall pay no filing fee and when accompanied by an affidavit as provided in Section 853 relating to petitions required, fees and filing affidavit of candidate, such County Auditor shall place the name of such applicant upon the primary election ballot in the columns of his party as hereinbefore provided.

When a legislative district is composed of more than one county, the petition herein provided for shall be filed with the County Auditor of the county where the candidate resides, and such County Auditor shall certify to the county auditors of the other counties comprising such legislative districts the names of the candidates filing such petitions. The filing fees received as above by the County Auditor, shall be turned over by him to the County Treasurer to be converted into the general fund.

Approved March 10, 1931.

## CHAPTER 140

(H. B. No. 193—Hamilton and Halvorson.)

## USE OF VOTERS GUIDE CARDS AT ELECTIONS

An Act to permit the use of guide cards in elections, to assist in enabling elector to vote for the candidate of his or her choice.

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

§ 1. GUIDE CARDS FOR INFORMATION OF VOTERS. HOW PRINTED. WHEN USED.] At any statewide election, either general or primary, for the information and guidance of the elector, there shall be posted in every election booth, a guide-card upon which shall be printed, in separate columns, for each political organization, faction or party, the names of all candidates for United States Senator and Congressmen, State Officers and Legislative candidates in the district where posted, who are endorsed by any state-wide political faction or organization; which said card shall contain nothing but the names of such candidates so endorsed, by any such statewide political faction or organization the title of the office to which each of such candidates aspire, together with a heading to each said column, in form as follows: "The following named candidates are endorsed and supported by the Nonpartisan League," or "The following named candidates are endorsed and supported by the Independent Voters' Association," or a similar statement as to endorsement and support of such list of candidates by the Republican, Democratic or other political faction or organization. Such card shall be not more than 14 inches in depth and shall be divided into columns six inches wide, such columns to be separated by 8 point column rule with at least 3 point face, the number of such columns to be determined by the number of tickets of such political factions or organizations to be represented upon such card and the ticket of each such political faction or organization, shall be printed in one of such columns in identically the same manner and type; the names of the offices for which such candidates are to be nominated or elected, shall be printed thereon in the order in which the same will appear upon the election ballot, and the name of the candidates for each such office shall appear immediately under that of the office to which he aspires:

The column of each political faction or organization represented upon such card, shall be headed only as hereinbefore provided; such heading to be printed in 18 point bold face type:

The name of the office to which each such candidate aspires, shall be printed in 12 point bold faced type, extended:

The name of the candidate shall be printed in 12 point, light faced type, set in caps, and not extended:

Nothing other than the matter hereinbefore specified and provided for shall appear or be printed upon any such guide card, which

guide card shall be of Number 3 white cardboard stock; except that the same may contain the mark or label of any typographical or printer's union.

The auditor of each county within the state is hereby directed and required to prepare and have printed such guide cards, containing the ticket of such political factions or organizations as are entitled thereto under the provisions of this Act; and is hereby required to submit prior to the printing thereof, upon request, to any candidate whose name is entitled to appear upon such guide card, or to any person having a written authorization from any such candidate, to demand the same; a true and correct copy of such guide card in the form proposed to be printed by said auditor.

The guide card as hereinbefore provided for, shall be by the auditor of each county within the state, distributed with other election supplies to each precinct within the county, in a sufficient number to supply to each polling place therein at least two such cards for each election booth therein.

It is hereby made the duty of the County Auditor in every county to accompany such guide cards with an instruction which shall direct the proper election official of each polling place, that one of said guide cards shall be posted by the election inspector in each election booth, and that the same must be kept so posted during the entire time that the polls are open upon such election day; and such auditor shall in such instruction, advise all election officials of the penalty by this act provided for failing to so post, failing to keep posted, and for altering or defacing the said guide cards.

§ 2. PENALTY.] Any election judge, or other person, posting any card in an election booth, other than as above provided; any election judge permitting any card other than as above provided to be posted or remain posted in an election booth; any election inspector so furnished with such cards, failing to post the same in the manner above provided; any election official failing to keep such card so posted during the hours the polls are open on election day; and any person removing, defacing or altering on election day, any card posted in compliance with the provisions hereof, shall be guilty of a misdemeanor.

§ 3. REPEAL.] All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

Approved March 11, 1931.

# EMBALMERS

## CHAPTER 141

(H. B. No. 147—Pfenning and Bishop.)

### EMBALMERS LICENSE

An Act to amend and re-enact Sections 544 and 546 of the Compiled Laws 1913, relating to the practice and profession of embalming or preparing human bodies for burial or shipment, and providing for penalties for the violations of this act.

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

§ 1. AMENDMENT.] Section 544 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 544. LICENSE ISSUED. WHEN.] Every person who wishes to practice the profession of embalming dead human bodies in the State of North Dakota, or who embalms and prepares for burial or for shipment any human body, shall appear before the State Board of Embalmers as hereinbefore provided, for examination on his knowledge of embalming, sanitation, preservation of the dead, disinfection of a deceased person and of apartments, bedding, clothing, excretions or anything likely to be infected in the case of death from infectious or contagious disease, in accordance with the rules and regulations of the State Department of Health. Such examination shall be in writing and all examination papers shall be kept of record by said Board of Embalmers; and if the applicant be of good moral character and shows satisfactory evidence of having had such preliminary preparation and education as the rules and regulations of the Board of Embalmers may require, and passes a satisfactory examination in the subjects of anatomy, physiology, bacteriology, chemistry, sanitary science, practical embalming, funeral directing, and of the laws, rules and regulations governing the State Department of Health, then the said board on payment of the sum of \$15.00 to the Treasurer of said Board, shall issue to said applicant a license to practice the profession of embalming for the term of one year. If the applicant desires a renewal of such license, the said board shall grant it, except for cause. The annual fee for the renewal of such license shall not exceed five dollars. Provided, however, that whenever the State Board of Embalmers shall have reason to believe that any person to whom a license has been issued has become unfitted to practice embalming and disinfecting, or whenever a written complaint of a licensed embalmer, substantiated by affidavit supporting the same and charging the holder of an embalmer's license with violation of any provision of this Act, is filed with said Board, it shall be the duty of said Board to notify the person in question that it has reason to believe that he has violated the provisions of law and that his license ought to be revoked; which said notice shall be served upon him



either by registered mail or personal service. Provided, however, that when a written complaint against any such person is filed with said Board, either by a member thereof or a licensed embalmer, a copy thereof shall be attached to the notice so served upon said person. The said notice shall set forth in what particulars it is claimed there has been a violation of the law, and for what reason the person is believed to be unfitted to longer prosecute the business of an embalmer; and the said board shall further in such notice definitely fix a time and place when and where it will be in session for the purpose of considering such person's case; which time shall not be less than twelve days after the service of notice upon such person. Such person shall have the right to appear before said board at such time and place, to refute the charges made in said notice. Any member of said board shall have the right to administer oaths to witnesses. If after considering all the facts and circumstances the board shall have sufficient reason to believe that there has been a violation of the provisions of this act, or a violation of any rule or regulation prescribed by the said board for the preparation, embalming, shipping or burial of any dead human body, or that such person is unfitted to remain a licensed embalmer in this state, it shall have the right to revoke and cancel the license theretofore granted to such person.

Provided further that the State Board of Embalmers may issue licenses to practice embalming in this state for a period of one year by reciprocity, to applicants holding a duly authorized license to practice embalming in other states requiring the same or higher qualifications than are required by this article, in accordance with the rules and regulations of the Board of Embalmers.

§ 2. AMENDMENT.] Section 546 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 546. PENALTY FOR VIOLATION.] Any person who shall practice, or hold himself or herself out as practicing, the art of embalming the dead or preparing the dead for burial or shipment in accordance with the provisions of Section 544 of the Compiled Laws of 1913 as amended, without having complied with the provisions of said section, shall be guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be sentenced to pay a fine of not less than fifty dollars, or more than five hundred dollars, or undergo an imprisonment of not exceeding one year, or both, at the discretion of the court, for each and every offense.

Approved March 10, 1931.

## EMERGENCY COMMISSION

### CHAPTER 142 (H. B. No. 6—Mau.)

#### TRANSFER OF FUNDS BY EMERGENCY COMMISSION

**An Act empowering the Emergency Commission to authorize transfers from one fund to another belonging to the same state board, commission, department, or officer.**

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

§ 1. Whenever it shall be made to appear to the Emergency Commission by an itemized verified petition of any board, commission, department or officer, that the petitioner has incurred a loss of furniture, fixtures, equipment, books, supplies or records requiring immediate replacement, the Emergency Commission may order transferred from one fund to another belonging to or appropriated for the same board, commission, department or officer, such sum or sums as the Emergency Commission may consider necessary in order to care for the emergency then existing. No transfer shall be ordered pursuant to this act after June 30, 1931.

§ 2. This act shall be deemed cumulative and in addition to the powers vested in the Emergency Commission by Chapter 152, Session Laws of North Dakota for 1915, and not a repeal thereof.

§ 3. This act is hereby declared to be an emergency measure and shall be in full force and effect from its passage and approval.

Approved January 31, 1931.

## EMINENT DOMAIN

### CHAPTER 143 (S. B. No. 102—Porter.)

#### EMINENT DOMAIN FOR PUBLIC USE

**An Act to amend and re-enact Section 8203, Supplement to the Compiled Laws of 1913, relating to the right to exercise eminent domain.**

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

§ 1. AMENDMENT.] That Section 8203 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8203. Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public uses:

1. All public uses authorized by the Government of the United States.
2. Public buildings and grounds for the use of the State and all other public uses authorized by the legislative assembly of the State.
3. Public buildings and grounds for the use of any county, incorporated city, village, town or school; canals, aqueducts, flumes, ditches, or pipes for conducting water for the use of the inhabitants of any county, incorporated city, village or town; or for draining any county, incorporated city, village or town; raising the banks of streams, removing obstructions therefrom and widening, deepening or straightening their channels; roads, streets and alleys and all other uses for the benefit of any county, incorporated city, village or town, or the inhabitants thereof which may be authorized by the legislative assembly; but the mode of apportioning and collecting the costs of such improvements shall be such as may be provided in the statutes by which the same may be authorized.
4. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, by-roads, plank and turnpike roads, railroads and street railways, electric light plants and power transmission companies, canals, ditches, flumes, aqueducts, and pipes for public transportation, supplying mains and for irrigating purposes, draining and reclaiming lands.
5. Roads, tunnels, ditches, flumes, pipes and dumping places for working mines; also outlets, natural or otherwise for the flow, deposit or conduct of the tailings or refuse from mines; also mill dams.
6. By-roads leading from highways to residences and farms.
7. Telegraph and Telephone lines.
8. Sewerage of any incorporated city, or any village or town, whether incorporated or unincorporated, or of any settlement consisting of not less than ten families, or of any public buildings, belonging to the state, or of any college or university.
9. Cemeteries and public parks.
10. Oil and gas pipe lines and works and plants for supplying or conducting gas, oil, heat, refrigeration or power for the use of any county, incorporated city, village or town or the inhabitants thereof, together with lands, buildings and all other improvements in or upon which to erect, install, place, maintain, use or operate pumps, stations, tanks and other machinery or apparatus, and buildings, works and plants for the purpose of generating, refining, regulating, compressing, transmitting or distributing the same or necessary for the proper development and control of such gas, oil, heat, refrigeration or power, either at the time of the taking of said property or for the future proper development and control thereof.

11. Lands sought to be acquired by the State or any duly authorized and designated state official or board, which lands must necessarily be flooded in widening or raising the waters of any body or stream of navigable or public water in the State of North Dakota.

Approved March 11, 1931.

## EXECUTORS AND ADMINISTRATORS

### CHAPTER 144

(S. B. No. 39—Whitman.)

#### PARTITION OF ESTATES

An Act to amend and re-enact Section 8852 of the Compiled Laws of North Dakota for 1913.

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

§ 1. AMENDMENT.] Section 8852 of the Compiled Laws of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

“§ 8852. PARTITION MAY BE MADE.] Partition or distribution of the real and personal estate may be made as provided in this Chapter, although some of the original heirs, legatees or devisees may have conveyed their share to other persons and such shares must be assigned to the persons holding the same, in the same manner as they otherwise would have been, to such heirs, legatees or devisees.”

Approved March 6, 1931.

### CHAPTER 145

(H. B. No. 97—Martin of Bottineau)

#### RENEWAL CHATTEL MORTGAGES, ETC., BY EXECUTORS, ADMINISTRATORS AND GUARDIANS

An Act to authorize executors, administrators and guardians of estates of incompetent persons to execute renewals of chattel mortgages and notes secured thereby and providing for foreclosure thereof.

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

§ 1. The County Court having jurisdiction may, without service of citation or notice, upon the verified petition of an administrator, executor or guardian of estate of incompetent person, order such administrator, executor or guardian to execute a mortgage or mortgages upon all of that part of the personal property of a decedent which was included in a valid mortgage in existence at the time of the death of such decedent, and to execute a renewal promissory note or notes for the indebtedness secured thereby, the due date of which shall

be not more than twelve months from and after the date of such renewal or renewals. Such renewal chattel mortgage or mortgages may be foreclosed in the manner now otherwise provided by law.

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

Approved March 7, 1931.

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## FEEBLE MINDED

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### CHAPTER 146

(S. B. No. 40—Whitman.)

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#### DISPOSITION NON-RESIDENT FEEBLE MINDED

An Act defining a feeble minded person and providing for his removal from this state.

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

§ 1. DEFINITION.] The term "feeble-minded person" in this Act, means any person, minor or adult, other than an insane person, who is so mentally defective as to be incapable of managing himself and his affairs, and to require supervision, control and care for his own, or the public's welfare.

§ 2. DISPOSITION OF NON-RESIDENT FEEBLE-MINDED PERSON.] Whenever any person shall be found by the Commissioner of Insanity to be a feeble-minded person and such person has no legal residence within this state, such person shall be sent, at the expense of the State, by the Commissioners of Insanity, to the place and State where such person belongs and if such feeble-minded person has a guardian, in another state, such feeble-minded person shall be returned to the custody of such guardian and it shall be the duty of the Commissioners of Insanity to ascertain the place where such feeble-minded person belongs, when the same can be conveniently done and the Sheriff of the County shall convey such feeble-minded person to the place where he belongs and he shall be allowed his actual expenses therefor, which shall be paid out of the State Treasury.

Approved March 6, 1931.

# FIRE MARSHAL

## CHAPTER 147

(S. B. No. 186—Sperry.)

### ORGANIZATION AND RULES FIRE MARSHAL DEPARTMENT

An Act to amend and re-enact Sections 201, 213, 214 and 215 of the Compiled Laws of North Dakota for the year 1913, relating to the creation of a fire marshal department.

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

§ 1. AMENDMENT.] That Section 201 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted as follows:

§ 201. ORGANIZATION OF DEPARTMENT. Upon the expiration of the term of office of the present Fire Marshal the Governor shall appoint a Fire Marshal who shall hold office for a term of two (2) years, and shall be removed for cause only, and until his successor is appointed and qualified. The Fire Marshal shall appoint a Chief-Assistant Fire Marshal and a Clerk who shall act as Deputy-Assistant Fire Marshal who shall hold their offices at the pleasure of the Fire Marshal. The Fire Marshal and Chief-Assistant shall give a bond to the State of North Dakota in the penal sum of Five Thousand Dollars (\$5,000.00), each, conditioned upon the faithful discharge of their duties. The Fire Marshal, the Chief-Assistant Fire Marshal and the Deputy-Assistant Fire Marshal shall take and subscribe and file in the office of the Secretary of State the constitutional oath within ten (10) days after the time of their appointment respectively.

§ 2. That Section 213 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted as follows:

§ 213. SALARIES OF OFFICERS.] The Fire Marshal shall receive an annual salary not to exceed Twenty-five Hundred Dollars (\$2,500.00), and the Chief Assistant Fire Marshal shall receive such annual salary as shall be provided for in the general appropriation bill; the Fire Marshal, Chief Assistant Fire Marshal and all other employees of the State's Fire Marshal office shall receive their compensation monthly. All officers who shall perform any services at the request of the Fire Marshal or Chief Assistant Fire Marshal shall receive the same fees as officers in District Court and such fees shall be paid out of the Fire Marshal's fund as witnesses testifying under this article.

§ 3. That Section 214 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted as follows:

§ 214. CLERICAL ASSISTANTS AND OTHER EXPENSES.] The Fire Marshal shall employ clerks and assistants and incur such other

expenses as may be necessary in the performance of their duties including necessary traveling expenses not to exceed, including salaries, such sum as may be paid into the state treasury in the manner hereinbefore provided. Provided, that no clerk or assistant shall be appointed except as expressly provided for in this article until the necessity for such appointment shall first be passed upon by the Governor and approved by him.

§ 4. That Section 215 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted as follows:

§ 215. RULES FOR PREVENTION OF FIRES TO BE ISSUED.] The Fire Marshal shall make rules, not inconsistent with the statutory provisions, for the prevention of fires and such rules shall be fully explained to all state, county and city boards and officers by the Fire Marshal or his assistants. All such rules shall be posted in such conspicuous places as will tend to be of the greatest benefit to the residents of the state, and when called upon the Fire Marshal or one of his assistants shall appear before such board and explain the benefits derived by the compliance with such rules and regulations in the reduction of the hazardous conditions and the reduction in loss by fire.

Approved March 11, 1931.

## GAME AND FISH

### CHAPTER 148

(S. B. No. 58—Game and Fish Committee.)

#### GAME AND FISH

An Act relating to game and fish, for the propagation, conservation, protection and preservation of wild birds, wild animals and fish; providing for open seasons for taking or killing certain game birds, game animals, fur-bearing animals, fish and deer; authorizing the Governor upon recommendation of Game and Fish Commissioner to open, curtail, or extend seasons for taking or killing wild birds or animals; providing for search and seizure, and for resident and non-residence licenses; defining duties of officers and game refuges; and providing penalties for violations thereof; and to repeal Sections 10322a1 to 10322a89, both inclusive, except 10322a27, (10322a51, 10322a50), of the Supplement to the Compiled Laws of 1913, Chapters 145, 146, 147, 148, 149, 150, 151, 152 and 153 of the 1927 Session Laws and Chapters 131, 132, 133, 134 and 135 of the 1929 Session Laws.

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

§ 1. OWNERSHIP OF GAME IN STATE.] The ownership of and title to all wild birds, fish and wild animals in the State of North Dakota, is hereby vested in the State for the purpose of regulating

the enjoyment, use, disposition and conservation thereof. No fish, wild birds or wild animals, which are protected by law, shall be caught, taken, killed or trapped, in any manner, or at any time, or had in possession, unless the person so taking, catching, killing or trapping consents that the title of said fish, wild birds or wild animals shall be and remain in the State of North Dakota for the purpose of regulating and controlling the use and disposition of the same after such catching, killing, taking or trapping. Any person catching, taking, killing, or trapping any wild birds or animals at any time or in any manner shall be deemed to consent that the title to the same shall be and remain in the State for the purpose of regulating the use and disposition thereof.

§ 2. POWERS AND DUTIES OF COMMISSIONER.] The Game and Fish Commissioner shall enforce the laws of this State, involving the protection and propagation of all game animals, game birds, fish and harmless birds and animals.

(1) The propagation and preservation of such variety of game and fish as he shall deem to be of value.

(2) The collection and diffusion of such statistics and information as shall be germane to the purpose of this Act and the publication of such information and reports, including the publication of a monthly bulletin for the education of the public in conservation matters.

(3) The receiving from the United States Commissioner of Fisheries or other person, and the gathering, purchase and distribution to the waters of this State of all fish, spawn or fry.

(4) The taking of fish from public waters of the State for the propagation and stocking of other waters therein. The taking alive at any time, by any means, under the personal supervision of the Commissioner, Deputy Commissioner, or bonded game wardens, any birds or animals for propagation purposes or for the exchange with other states and foreign countries for game and birds and animals of other species.

(5) The seizure and disposition of all wild birds, wild animals and fish, either taken, killed or transported, contrary to law, of all dogs, guns, seines, nets, boats, lights, automobiles, vehicles or other instrumentalities unlawfully used or held with intent to use in pursuing, taking, or attempting to take, concealing or disposing of the same, such property shall be seized and held subject to the order of the Court or Judge and disposed of after proper notice to owner and hearing by said Court, located in the county in which the alleged offense was committed, and for these purposes the Commissioner is hereby authorized and empowered to make all rules and regulations necessary for carrying out the provisions of this section and such rules and regulations shall have the force of law after one publication



in the daily newspapers of the State. The Game and Fish Commissioner shall have full power and authority to fix the maximum amount of traveling and other expenses which may be incurred by any or all of his appointees.

(6) The Game and Fish Commissioner may appoint and remove at pleasure not to exceed 12 regular district deputy game wardens who shall serve at the discretion and pleasure of the Commissioner. Each regular district deputy game warden shall receive as full compensation for his services not to exceed one hundred fifty dollars (\$150.00) per month and actual traveling expenses incurred in the performance of his duties, and shall give a bond to be furnished by the State of North Dakota in the penal sum of one thousand dollars (\$1,000.00), the premiums on such bonds to be payable out of the Game and Fish Fund, such bonds to be conditioned upon the faithful discharge of the duties of each of said offices. The Game and Fish Commissioner may appoint and remove at pleasure one or more special deputy game wardens in each county, who shall serve for such time and in such manner as the Commissioner may direct and such special deputy game warden shall serve without compensation but shall be entitled to a reward hereinafter provided.

(7) Whenever the Game and Fish Commissioner, after investigation, finds that the fish or any species thereof, in any lake for which an open season is provided, are in danger of undue depletion or extinction, or when necessary for the propagating of, or the protection of immature fish, he may by an order provide protection for such fish additional to that provided by law, and prescribe in what manner and in what number, and in what places, and at what time such fish may be taken. Any order issued by the Commissioner pursuant to this section shall have the force of law.

(8) The Game and Fish Commissioner shall have charge of all State game farms and fish hatcheries and appurtenances. He shall supervise the breeding, propagation, capture and distribution of such game birds and animals as he deems advisable. The Game and Fish Commissioner shall examine all State waters and wherever suitable waters are found, he shall arrange to plant, stock or deposit such fish as are available. He shall cooperate with the United States Commissioner of Fisheries, make application, receive, apportion and deposit such fish, spawn, or fry received. He shall cooperate with and assist clubs and individuals in stocking the waters of this State. He shall remove or take by any means from any of the public waters of the State containing a surplus of fish any reasonable quantity for stocking of other public waters of the State, or to be used for hatching or propagating purposes or for exchange with other states and countries for other species, but in no case shall the numbers so taken be so great as to perceptibly deplete such waters. No individual, club, society or person shall have authority or power to take from any of the public waters of the State, for exchange, propagation or

scientific purposes any fish except under the supervision of the Game and Fish Commissioner. The Game and Fish Commissioner may take or cause to be taken at any time by any means from any public waters of the State any suckers, carp or pickerel. The Commissioner may, subject to the approval of the Governor, purchase, sell, lease or condemn real estate for the State. He shall control, construct, mark, designate and manage all State fish hatcheries, State game farms, game refuges and game reserves that are now or may hereafter be owned, leased or controlled for such purposes.

§ 3. EXECUTION OF WRIT.] The Game and Fish Commissioner, deputy game and fish commissioner and all wardens and deputies appointed by the Commissioner shall have full power and authority to serve and execute all warrants and processes of law issued by the court in enforcing the provisions of this act, in the same manner as any sheriff or constable may serve and execute the same, and any person not drawing a salary from the Game and Fish Fund shall be entitled to fees in all cases wherein fines are paid, and for the purpose of enforcing the provisions of this act, they may call to their aid any sheriff, deputy sheriff, constable or police officer or any other person, and it shall be the duty of all police officers or other persons when called upon, to enforce and aid in enforcing the provisions of this act.

§ 4. DUTIES OF CHIEF GAME WARDEN.] It shall be the duty of the chief game warden to keep a complete and correct record of all his transactions, in a record book for that purpose, names of persons violating the game and fish laws, date of arrest, amount of fine and costs, and the name of the justice or magistrate before whom the persons appeared. All such records shall be open to the public when requested and the chief game warden shall make a full report of all matters of record to the Game and Fish Commissioner on December 1st of each year.

§ 5. OTHER OFFICIALS, ATTORNEYS.] The Attorney General, state's attorneys, sheriffs, constables and other peace officers are hereby required, and it is made their duty to enforce the provisions of this act. Such attorneys shall appear for said Commissioner in all civil actions in which he or his wardens may be interested officially, and shall appear in the prosecution of criminal actions arising under this act.

§ 6. TERMS DEFINED. AGENCY NO EXCUSE.] The words "sell" or "sale" as used in this act shall be construed as meaning any sale or offer to sell, or having in possession with intent to sell, use or dispose of the same contrary to law. The word "person" shall be deemed to include partnerships, associations and corporations and no violation of any provision of this act shall be excused for the reason that the prohibited act was done as the agent or employee of another, nor that it was committed by or through an agent or employee of the person so charged. The word "possession" shall be

construed to include both active and constructive possession as well as the control of the article referred to. Provided, however, that possession of contraband shall be prima facie evidence only of violation of this act. The term "waters of the state" shall be held to include all boundary waters of the state, and the provision of this act shall be construed to extend and be in force and effect over, upon and in all thereof. The term "any part thereof" or "the parts thereof" whenever used in this act shall be construed to include the hide, horns, or hoofs of any animal so referred to, and the plumage and skin and every other part of any bird so referred to. The term "confiscate" or "confiscated" when used in this act shall be construed to mean "to hold subject to the order of the court."

§ 7. POLICE POWERS, SEARCHES AND SEIZURES.] The Game and Fish Commissioner, deputy game and fish commissioner and bonded state game wardens are hereby authorized and empowered:

(1) To enter and inspect any hotel, restaurant, cold storage warehouse, plant, ice house or building for storage of dressed meats, game or fish for the purpose of determining whether game or fish or parts thereof are kept or stored therein in violation of this act and without warrant to open, enter and examine all buildings, camps, vessels, boats, wagons, automobiles or other vehicles, cars, crates, boxes, and other receptacles and places where they have reason to believe that wild game or parts thereof may be found which have been taken or held in violation of the laws pertaining to the taking of wild game and fish. Provided, however, that the right to enter and search without a warrant shall in no manner be taken or construed to apply to the entry or search of a dwelling house or living quarters of any person or a sealed railroad car. Willful hindering, obstructing, interfering or refusing such inspection shall be considered a misdemeanor.

(2) SEARCH WARRANTS.] Upon complaint made to any magistrate who has authority to issue warrants in criminal cases, by any person that he knows or has good reason to believe that any wild animal, bird or fish, or carcasses or parts thereof, caught, killed, taken or had in possession contrary to the provisions of this act is concealed in any particular house, place or living quarters of any person, the magistrate shall examine such complaint on oath, reduce his complaint to writing, describing as particularly as may be the place where said wild animal, bird or fish, or carcass, or part thereof, is alleged to be concealed and cause the same to be subscribed by the person complaining. If it appears to the magistrate that there is reasonable cause to believe that the facts alleged in said complaint are true, he shall immediately issue his warrant, reciting therein the substance of the complaint and the description of the premises described therein, and requiring the officer to whom it is directed to forthwith search such premises and seize any and all wild animals, game or fish, or carcasses or parts thereof and bring the same when

found, and the person in whose possession the same is found, before the magistrate who issued the warrant or before some other magistrate or court having jurisdiction of the case. The officer executing such warrant shall state in his return, as particularly as may be, the property seized, which shall be safely kept upon the direction of the court or magistrate so long as necessary for the purpose of being used as evidence on any trial, and if such trial results in conviction, the property so seized shall be disposed of under the order of the court.

(3) OPENING PACKAGES.] The State Game and Fish Commissioner, his deputies and bonded game wardens may examine and open any package in the possession of a common carrier which they suspect or have reason to believe contains contraband wild game or fish or casses (carcasses) or parts thereof or is falsely labeled in violation of the provisions of this act; and every such common carrier and every agent, servant or employee thereof shall permit any such officer to examine and open any such package. Any such package so opened shall be restored to its original condition. The Game and Fish Commissioner, deputy game and fish commissioner or bonded game wardens shall seize and hold subject to the order of the court located in the county in which the alleged offense was committed, any apparatus, appliance or vehicle or device, used in violation of this act and if it be proven that the same is or has been within six months previous to such seizure, used in violation of this act, the same shall be confiscated and sold if the court shall so direct in its order for judgment. Any seizure of perishable property made by the Commissioner, his deputies or game wardens may be sold at the highest available price and the proceeds of such sale turned into court to await disposition as the court may direct.

(4) ENTIRE SHIPMENT AFFECTED.] Confiscation of any part of shipment shall include the entire shipment and whenever two or more wild animals, birds or fish carcasses, hides or parts thereof are packed, stored or contained in the same bag, crate, box or other receptacle, or are otherwise commingled and one or more thereof are contraband, then in such cases, the whole shipment or parcel shall be deemed contraband.

(5) SALE OF CONFISCATED GAME AND DEVICES.] All confiscated wild animals, game birds or fish or carcasses or parts thereof and all confiscated apparatus, appliances or devices, shall be, under order of court having jurisdiction of offense, sold for the highest price obtainable by the Game and Fish Commissioner or his deputies. The net proceeds of such sales, after deducting the expense of seizure and sale, shall be promptly remitted by the person under whose authority and supervision the sales are made to the Game and Fish Commissioner and by him paid into the state treasury, and credited to the game and fish fund; the remittance to be accompanied by a complete and certified report of such sales supported by proper vouchers covering all deductions made for expenses to be filed for record in

the office of the Game and Fish Commissioner. On any such sales of wild animals, game birds or fish, or carcasses or parts thereof, the person selling them shall issue to each purchaser a bill of sale on forms to be prepared and furnished by the Game and Fish Commissioner.

§ 8. WITNESSES.] In any prosecution under the provisions of this act, the participant in the violation thereof may testify as a witness against any other person violating the same without incriminating himself in so doing, and shall be immune from prosecution for such violation.

§ 9. LIMITATIONS TO PROSECUTIONS.] All prosecutions under this act shall be commenced within two years from the time the offense is committed.

§ 10. FINES. DISPOSITION OF.] All fines collected under any of the provisions of this act shall be paid into the county treasury of the proper county to be added to the state school fund.

§ 11. DISPOSITION OF OTHER MONEYS.] All moneys collected by the Game and Fish Commissioner, his deputies or agents upon licenses issued, by the sale of game seized and sold and from all other sources except fines, shall be paid to the Treasurer of the State of North Dakota to be credited to the game and fish fund to be used for the purpose of enforcing the provisions of this act; provided, that any surplus money accumulating to the credit of the game and fish fund may be used for the propagation of game and fish.

§ 12. REWARDS.] The following rewards may be paid by the Game and Fish Commissioner out of any fund subject to his order to any person or persons making complaint thereof upon the arrest and conviction of any person violating any of the provisions of this act, the sum of twenty-five dollars, involving deer, antelope, moose, or elk, beaver or otter, and ten dollars involving the violations of any game bird or fish; provided, however, that this section shall not apply to any game warden or other officer or employee regularly employed and receiving salary from the Game and Fish Department.

§ 13. EXCHANGE SPECIMENS.] The Game and Fish Commissioner may secure by purchase or otherwise, and exchange specimens of game birds, game animals or fish with the game commission or state game wardens of other states or countries for breeding purposes.

§ 14. NESTS AND EGGS.] No person shall at any time take or have in possession or under control, or needlessly break up or destroy or in any manner interfere with any nest, or the eggs of any kind of birds, the killing of which is at any time prohibited.

§ 15. TRAPS, SNARES, LIGHTS, ETC.] No person shall at any time set, lay, or prepare any trap, snare, artificial light, net, bird lime, swivel gun or any contrivance whatever, or drag any wire or

rope or other contrivances in any manner for the purposes of catching, taking, killing or raising any protected game birds, animals or fish mentioned in this act. Game birds and animals protected by law can be taken only in daytime with a gun not larger in bore than a ten gauge shot gun, fired from the shoulder. Natural blinds, which are stationary, decoys and boats anchored in natural blinds can be used in the taking of wild ducks and geese. No person shall shoot from a sunken device nor from any boat in open water of this state, nor shall any person use or cause to be used any floating battery, electric, steam or gasoline or other floating vessel, or rifle, pistol or ball cartridge, for the purpose of raising or driving any game birds from their resting or feeding places in any waters of this state. Rifles shall not be used in hunting or pursuing wild ducks and geese or other protected game birds. No person while in a motor vehicle shall take any game or discharge any firearm at any protected birds or animals. It shall be unlawful to use any kind or type of silencers on firearms.

§ 16. HOURS FOR SHOOTING.] No person shall hunt, pursue, catch, shoot at or in any manner molest any game birds or animals mentioned in this act within the borders of this state during the time elapsing between actual sunset and one-half hour before sunrise.

§ 17. TRESPASSING SIGNS.] It shall be unlawful for any person to enter upon the premises of another for the purpose of hunting or pursuing game or to hunt or pursue game upon the premises of another without having first obtained permission of the person legally entitled to grant the same; provided, that the owner or tenant of said land or premises shall have placed at a point alongside of the public highway or land posted signs giving notice that no hunting will be permitted on said land or premises, and such signs shall be conspicuously posted at a distance of not more than eighty rods apart, to be readable from the outside of the land. Any person or persons entering upon the premises of another without permission as provided, who shall at the time of so entering have in his or her possession any gun or firearm shall prima facie be presumed to have entered said premises for the purpose of hunting game within the meaning of this act; provided, however, that nothing in this act shall prevent a person from going upon posted land to take game shot or killed on land where such person has lawful right to hunt. It shall not be considered the duty of the Game and Fish Commissioner or any of the game wardens to enforce the provisions of this section.

§ 18. DISQUALIFICATION—GAME WARDEN.] No person or agent or employee of such person shall act or be appointed as a game warden who is the owner of or in possession of any land which is under lease or contract for hunting purposes within the State.

§ 19. GAME BIRDS; SEASON FOR KILLING.] No person shall hunt, take, kill, convey, ship or cause to be shipped by common or

private carrier, or sell, or barter any game bird or any part thereof at any time, and for the purpose of this act, the following birds shall be construed as being game birds: geese, brant, swan, duck, plover, snipe, woodcock, grouse, sage-hen, pheasant, Hungarian partridge, quail, partridge, crane, rail, coot and dove, of any and all varieties. Provided that pinnated grouse (prairie chicken), and sharp-tailed grouse (white-breasted grouse) may be killed and had in possession between the 16th day of September and the 16th day of October following, both days inclusive; and provided that ruffed grouse (partridge) may be killed in the counties of Bottineau, Rolette, Cavalier, and Pembina, between the 7th day of October and the 16th day of October following, both days inclusive; and provided further that male Chinese ringneck, Mongolian, and English pheasants may be killed between the 15th day of October and the first day of November following, both days inclusive; and that geese, brant, Wilson's snipe (jack snipe), coot (mud hen), and ducks of any kind or species except the eider duck and the wood duck, may be killed between the 16th day of September and the 31st day of December following, both days inclusive.

Any person violating any provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or by imprisonment in the county jail for not less than ten or more than thirty days, or by both such fine and imprisonment, for each and every bird taken or killed in violation of the provisions of this section.

§ 20. MOOSE, ELK, ANTELOPE, DEER, SEASON FOR KILLING DEER. LICENSE.]

(1) No person shall hunt, pursue, take or attempt to take, transport, ship, or convey by common or private carrier, or sell, or otherwise barter or exchange, any moose, elk, antelope, or deer, or any part thereof at any time. Provided that any person, having procured a big game hunting license, may take and kill one antlered deer between the 16th day of November and the 25th day of November following, both days inclusive. Provided, however, that the hunting of deer in the counties hereinafter named shall be prohibited: Bowman, Slope, Billings, Golden Valley, McKenzie south of Township 150, Divide, Burke, Renville, Ward, Bottineau except east of Range 76, McHenry, Pierce, Benson, Ramsey, Towner, Cavalier, Nelson, Grand Forks, Walsh and Pembina. All deer hunters shall wear red caps.

Deer to be taken only in the daytime, with rifle fired from the shoulder, and any other device or instrumentalities used, or held with the intent to use, in the taking of deer, or as an aid or means in the hunting or taking of deer, is hereby specifically prohibited and declared to be unlawful. A dog or dogs shall not be used in any manner in the hunting of deer. Deer shall not be shot from any artificial

platform, scaffold, blind, or other artificial device. No artificial light, including automobile and motorcycle headlights and spotlights, shall be used to entrap or entice deer, or as an aid in the taking or hunting of deer; and the practice commonly known as shining for deer is hereby specifically prohibited, and any person or persons, who shall shine any area, plot, or territory, commonly frequented by deer, with, or by means of any artificial lights, between the hours of sunset and sunrise, shall be deemed to have violated the provisions of this section.

(2) Any person who shall violate any provisions of subdivision one (1) of this section shall be guilty of a gross misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or by imprisonment in the county jail for not less than thirty (30) days or more than six (6) months, or by both such fine and imprisonment.

(3) No person shall hunt, kill, take, or attempt to take any deer without having first procured a big game hunting license. Big game hunting licenses shall be sold by the Game and Fish Commissioner, the Deputy Game and Fish Commissioner, or any bonded game warden. The fee shall be five dollars (\$5.00) for a resident license and fifty dollars (\$50.00) for a non-resident license; and the proceeds thereof shall be paid into the game and fish fund. The Game and Fish Commissioner shall prepare all necessary blanks for such licenses and applications. The licenses shall be numbered consecutively at the time of printing, in separate series, and each license blank shall be provided with a corresponding stub, numbered with the serial number of the license, and the license and the stub shall bear such information as the Commissioner may deem expedient or necessary.

(4) The licensee shall, immediately after killing a deer, affix to the carcass thereof the stub or tag of his license, and shall also affix to such carcass, before the same is transported, or offered for transportation, a metal locking seal, bearing the license number of the owner thereof and the year issued, in figures; said seal to be furnished by the Game and Fish Commissioner with each and every license.

(5) Any violation of subdivisions 3 and 4 of this section shall be deemed a misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), or by imprisonment in the county jail for not less than twenty (20) nor more than thirty (30) days, or by both such fine and imprisonment, for each and every violation.

§ 21. LICENSES FOR RESIDENT AND NON-RESIDENT HUNTERS, FISHING AND TAXIDERMISTS. HOW PROVIDED.] All persons are prohibited from hunting, catching, taking or killing any protected game



bird, animal or fish in this State without first having procured a hunting, trapping or fishing license, as prescribed in this act. It is hereby provided, however, that no license is required for any resident of this State or any member of his family residing permanently with him to hunt, fish or trap on lands owned or leased by him during the open season as provided for in this act, except for the hunting of deer and trapping of beaver. All persons are prohibited from practicing taxidermy for pay without first having procured a license therefor. The Game and Fish Commissioner shall provide the necessary blank forms for applications and licenses of all kinds and distribute them among those authorized to sell licenses.

§ 22. RESIDENT LICENSES. COST. HOW ISSUED. APPLICATIONS. FORMS. GAME AND FISH SHIPMENT.] Applications for resident hunting, trapping or fishing licenses shall show the applicant is a citizen of the United States, or has declared his intention to become such citizen, and is a bona fide resident of the State, and for six months has been a resident of the county in which the license is sought, shall give his residence, postoffice address, shall contain a description of his person as to his weight, height, color of his hair and eyes. Such application shall be signed by the applicant and witnessed by two residents of the State. Resident hunting, trapping, fishing and taxidermist licenses may be sold by the County Auditors, Game and Fish Commissioner, deputy game and fish commissioner, and all bonded game wardens. When sold by the Game and Fish Commissioner, deputy game and fish commissioner or the bonded game wardens, the gross receipts must be sent to the Game and Fish Commissioner's office at Bismarck, North Dakota, and by him transmitted to the State Treasurer, who shall credit the amount to the game and fish fund. No such resident license shall be transferable. Resident hunting licenses shall be sold for one dollar and fifty cents (\$1.50) each; resident trapping licenses for two dollars (\$2.00) each; resident fishing licenses for one dollar (\$1.00) each; taxidermist licenses for two dollars (\$2.00) each. Provided, that any person under 18 years of age may fish without a license. Resident licenses, when issued shall describe the licensee, designate his place of residence, and have printed upon it in large figures the year for which issued and the words "Non Transferable." Any resident of the State having procured a resident hunting, trapping or fishing license as required and being lawfully in possession of any protected game birds, animals or fish, mentioned in this act, may ship by common carrier, or when same is accompanied by the person legally in the possession of said protected game birds, animals or fish, may carry on the same train or other conveyance to his home address in the county in which he resides not to exceed a two days' bag limit of any protected game birds, animals or fish. Any resident of the State who shall hunt, trap, fish, practice taxidermy for pay without having first procured a license therefor, as provided in this act,

shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) and cost of prosecution, or by imprisonment in the county jail for not less than ten nor more than thirty days for each offense, or by both such fine and imprisonment, and each violation of this act shall be a distinct and separate offense.

§ 23. NON-RESIDENT LICENSE. COST. HOW ISSUED. APPLICATION. FORM. GAME SHIPMENTS.] Every person not a resident of this State for six (6) months prior to the application for any license provided herein is prohibited from hunting, taking, trapping, killing or capturing any protected game or animal, unless he shall have first procured a non-resident hunting or trapping license, for which he shall pay the sum of twenty-five dollars (\$25.00). Every person not a resident of this state for six (6) months is prohibited from fishing, taking, catching, killing or capturing in any manner any fish unless he shall have first procured a non-resident fishing license, for which he shall pay the sum of three dollars (\$3.00); provided, that any non-resident person under twelve (12) years of age may fish without a license. Such non-resident licenses may be sold by the Game and Fish Commissioner, deputy game and fish commissioner or bonded game wardens or County Auditors when countersigned by the Game and Fish Commissioner. Such non-resident licenses shall describe the licensee, designate the place of residence, and have printed on them in large letters the year for which issued and the words "Non-Resident License" and "Non-Transferable." Any non-resident having procured such non-resident hunting and trapping license may carry with him on leaving the State not to exceed a two days' bag limit. Any common carrier is hereby permitted to carry any such protected game birds and animals when presented for conveyance by the person who displays a non-resident license identifying him and who is legally in possession of the same, provided that the same is (in) plainly marked with a suitable tag bearing the name and address of the licensee and the number of his non-resident hunting and trapping license and there is attached thereto a special tag provided on the non-resident license form, and carried openly for the inspection of its contents. Any non-resident of this State who shall hunt, trap or fish without having procured a non-resident license therefor, as provided in this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars. (\$50.00) nor more than one hundred dollars (\$100.00) and costs of prosecution, or by imprisonment in the county jail (hail) for not less than ten days nor more than thirty days, or by both such fine and imprisonment, for each and every offense. Each violation of this section shall be a distinct and separate offense.

§ 24. RESIDENT HUNTING LICENSES TO ACTUAL SETTLERS WHO ARE RECENT ARRIVALS.] Resident licenses may be issued by and in the discretion of the Game and Fish Commissioner to actual settlers who may not have been in the state or county the required time immediately preceding the application for the license, provided a satisfactory affidavit of some bona fide resident of the State setting forth the actual conditions accompany the application.

§ 25. CARRYING AND DISPLAYING LICENSES.] All persons holding licenses under this act shall carry them on their persons when engaged in hunting, trapping or fishing and shall on the request or demand of the Game and Fish Commissioner, deputy game and fish commissioner or any game warden or police officer immediately show the license to the officer making the request or demand. Refusal to show such licenses shall constitute a misdemeanor.

§ 26. PERMITS.] The Game and Fish Commissioner may issue permits to breed or domesticate any protected birds or animals; permits to any resident hunting licenses to ship not to exceed in any one season twenty-five (25) protected game birds to points other than his home within the State or to points outside of the State; permits to make collections of protected birds and animals for scientific purposes. The Game and Fish Commissioner may also issue permits for shipment within or without the State of any live protected birds or animals, provided the permit is attached to the shipment. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

§ 27. COUNTY AUDITORS. BONDS. REPORTS. FEES.] The bonds required under the general and special laws of the State of North Dakota to be given by County Auditors shall hereby be construed as applying to all the duties required of such County Auditors under the provisions of this act, including the liability for all moneys required to be collected or received under the terms of this act for the sale of licenses, and for each license sold by him each County Auditor shall collect the charges authorized under this act and retain as his compensation for the additional duties prescribed for such officer by this act, for all licenses sold by him, the fee of ten cents for each resident license, the fee of one dollar for each non-resident license, and twenty-five cents for each non-resident fishing license, and the remainder he shall transmit to the Game and Fish Commissioner, who shall in turn transmit it to the State Treasurer, who shall credit the same to the game and fish fund. The retention by such County Auditor of such specified fees for his personal use is hereby legalized and authorized.

Each County Auditor shall keep all applications for license and all license stubs on file, subject to the inspection by the Game and Fish Commissioner, or his duly authorized deputies and wardens, at all times. Each County Auditor shall transmit to the Game and Fish

Commissioner on the first day of February, May, August, and November, of each year, all license moneys he may have received since the preceding remittance, together with a complete report of all license sales, on forms furnished by the Game and Fish Commissioner. Within thirty (30) days after the close of each open season, each County Auditor shall transmit to the Game and Fish Commissioner, all applications for licenses, license stubs, and unused or mutilated licenses covering that particular open season; and all moneys received for the sale of such licenses and not previously transmitted, together with a complete report of such license sales, to be made on forms furnished by the Game and Fish Commissioner.

§ 28. FORFEITURE OF LICENSES.] All persons convicted of violations of the provisions of this act shall, in addition to the fine and imprisonment provided, also forfeit any licenses held by them for privileges they have violated, and no license shall be issued to such person for the remainder of such year.

§ 29. MISREPRESENTATIONS OR ALTERATIONS.] Any person who makes any misrepresentations in his application for licenses; or makes any alterations in licenses already procured, shall be guilty of a misdemeanor, and upon conviction be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) or by imprisonment in the county jail for not less than twenty days nor more than thirty days, or both such fine and imprisonment.

§ 30. NO DUPLICATE LICENSES.] No official issuing licenses shall have authority to issue duplicate licenses to those who have lost their licenses without the repayment of the license fee.

§ 31. COMMON CARRIERS.] No transportation company or common carrier shall receive for transportation or attempt to transport any protected game bird or animal or fish except during the open season for same as provided for in this act.

§ 32. FUR-BEARING ANIMALS.]

(1) No person shall hunt, shoot, trap or take in any manner any fur-bearing animals except during the open or lawful season as established by this act; provided, that it shall be lawful to take at any time, or in any manner any wild fur-bearing animal not specifically protected by this act, and, provided further, that animals may be taken for breeding or domestication as hereinbefore authorized.

(2) Land owners and tenants may destroy any wild fur-bearing animal which is committing depredations upon their poultry, domestic animals or crops, but under no circumstances shall it be legal to sell, ship or commercialize in the pelts of such depredating animals, or any part thereof, if caught or killed out of season.

(3) SKUNK, BADGER.] It shall be lawful to trap or take for commercial purposes the skunk and badger between the first day of November and the 28th day of February, both inclusive, provided, that the badger shall not be caught or killed by pouring or running water in burrow or retreat.

(4) MINK, WEASEL, RACCOON, FOX.] It shall be lawful to trap or take for commercial purposes the mink, weasel, raccoon, red and gray fox and swift between the 15th day of November and the 15th day of February, both inclusive.

(5) MUSKRAT.] It shall be lawful to trap or take for commercial purposes the muskrat between the fifteenth day of December and the fifteenth day of February, both inclusive, provided that it shall be unlawful at any time, for any purpose, to shoot, or spear the muskrat; to dynamite or destroy a muskrat house, burrow or retreat.

(6) DEALER'S LICENSE.] It shall be unlawful for any person to engage in the business of buying, shipping or selling of green furs without first procuring a license, the fee for which shall be as follows: For a non-resident buyer or shipper, or his agent, license fee shall be twenty-five dollars (\$25.00); for a resident buyer or shipper, the fee shall be five dollars (\$5.00) for each place of business in the State; for a resident traveling agent, buyer or shipper, the fee shall be fifteen dollars (\$15.00); said license to be obtained from the Game and Fish Commissioner, fees for which shall be credited to the game and fish fund in the usual manner. The life of all licenses issued to dealers in green furs and trappers shall terminate on September 1st of each year.

(7) INSPECTION OF PREMISES AND RECORDS.] The Game and Fish Commissioner, the deputy game and fish commissioner and bonded game wardens shall have the right without warrant to enter upon the premises of any dealer or trader in green furs for the purpose of inspecting any warehouse or other store rooms, or places, and to call for and inspect records of buying, shipping or selling of green furs; provided, however, that the right to enter and search without a warrant shall in no manner be taken or construed to apply to the entry or search of the dwelling house or living quarters of any person or sealed railroad car. They shall also have the power and authority to seize and hold subject to the order of the court having jurisdiction of the offense any green furs obtained illegally, and shall have the right to search camps, tents, automobiles or other vehicles for the same purpose.

(8) TRESPASSING.] Any owner or lessee of any premises upon which there may be any muskrats shall have the right to post in conspicuous places a notice forbidding the trapping of muskrats thereon, and it shall be unlawful for anyone to trap, take or kill any muskrats thereon; provided, however, that said owner or lessee may trap

muskrats in a lawful way in the open season for same. Provided that the Game and Fish Commissioner shall have the power and authority to close any lake or lakes against the trapping or the killing of the muskrat therein when it is essential for the welfare of the game fish in said lake or lakes, notice of such closing to be posted at said lake or lakes.

§ 33. TURNING OVER MONEY. NEGLIGENCE. PENALTY.] Any person who shall fail, refuse or neglect to turn over, as provided in this act, any moneys collected or authorized to be collected under the provisions of this act, or who shall fail, neglect or refuse to turn over and deliver all applications, stubs, mutilated and unused licenses and permits, shall be fined not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00) and costs of prosecution, and civil actions may be begun by the Game and Fish Commissioner against his bondsmen to recover any money not turned over according to the provisions of this act.

§ 34. TAXIDERMISTRY. HOW REGULATED.] Hereafter it shall be unlawful in the State of North Dakota for any person who shall engage in conducting a taxidermist business, as the term is commonly understood, to prepare or mount any skins or dead bodies of any protected game birds or animals for profit, without first having secured a license therefor, which shall be granted to any person by the Game and Fish Commissioner. All taxidermists must keep a register in which a list of names of persons who furnish them with green or unmounted specimen shall be kept, together with the species of bird or animal received, and by whom sent, and shall exhibit this register, together with all unmounted skins in his possession to the Game and Fish Commissioner or his deputy or bonded game wardens upon request. Upon conviction of any holder of a taxidermist license for violating any of the provisions of this section, his license shall be forfeited for the remainder of that year, and he shall be punished by a fine of not less than ten nor more than twenty-five dollars.

§ 35. BAG LIMITS: POSSESSION LIMITS.] No person shall in any one day take, catch, kill, or destroy more than five (5) pinnated grouse (prairie chicken), sharp-tailed grouse (white-breasted grouse), or ruffed grouse (partridge), nor more than five (5) of any or all varieties combined; nor more than four (4) geese; nor more than four (4) brant, nor more than four (4) geese and brant combined; nor more than fifteen (15) ducks; nor more than ten (10) Wilson's snipe (jack snipe); nor more than twelve (12) coot (mud hen); nor more than three (3) male pheasants.

No person shall at any time have in possession, or under control, ship, transport, store, can or otherwise preserve, more than two days' bag limit of any protected bird mentioned in this section.

PENALTY.] Any person violating any of the provisions of this Section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25.00), nor more than One Hundred Dollars (\$100.00), or by imprisonment in the county jail for not less than ten (10) days nor more than thirty (30) days, or by both such fine and imprisonment, for each and every bird taken, stored, transported, or possessed, contrary to the provisions of this Section.

§ 36. RESISTING COMMISSIONER OR WARDENS.] Whoever shall resist or obstruct the Game and Fish Commissioner or any warden or other officer of this state in the discharge of his duties under this act, shall be guilty of a misdemeanor.

§ 37. GAME REFUGE.] Any person, partnership or corporation owning or having control by lease or otherwise for the required time of lands within the State of North Dakota, may establish thereon a game refuge by filing a written application with the Game and Fish Commissioner giving; (a) the name of the owner or lessee, or in case of the lessee, the written consent of both the owner and the lessee; (b) the time for which the refuge is to be established. In no case less than ten years from the date the application is filed; (c) the extent and legal description of the land, in no case less than ten acres, and not to exceed in all six sections in any one township; (d) a brief dedication of the land to the State of North Dakota for the purpose of a game refuge; (e) each owner or lessee, if the latter the written agreement of both, must waive all rights of himself or members of his family to hunt, shoot, trap or kill any protected game bird or animal, during the life of the dedication of the land to the state as a game refuge, and after the filing of his application in due form and the acceptance by the Game and Fish Commissioner shall constitute a game refuge within the meaning of this section. A proper record subject to public inspection shall be kept by the Game and Fish Commissioner in which shall be registered by counties the names and donors, the time of the dedication and the legal description of the lands so dedicated as game refuges. The Game and Fish Commissioner may, in like manner, establish one or more game refuges on any unsold public lands of the State, which shall be registered with the game refuges on the private lands, as hereinbefore set forth, the duration of the public land refuges being until they become the property of private persons or until cancelled by the Game and Fish Commissioner. It is further provided that under the same terms and conditions the owner or owners of land surrounding or adjoining any lake within the state may dedicate the lake to the state for breeding, resting and refuge places for water-fowl. All lands and lakes so set aside and established as game refuges shall be under the protection of the state, and it shall be unlawful to hunt with any firearms of any description within one hundred and fifty feet of the boundaries thereof, and any person who shall within the limits of one hundred and

fifty feet of any game refuge shoot, trap, kill, wound in any manner, take or capture or drive out of the refuge for the purpose of killing or capturing any protected game bird or animal, or shall be found within the limits of any game refuge with firearms of any kind, shall, upon conviction, be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than ten or more than thirty days in the discretion of the court. Any person convicted of a second or subsequent offense shall be punished by a fine double the amount of the penalty for the first offense. Each game refuge shall, after it has been established as provided, be posted at each corner and along its outer line at approximately eighty rods with a sign upon which shall be the words, "State Game Refuge". The owner or lessee of any land or lakes so set aside as a game refuge shall not himself hunt or carry firearms therein nor permit immediate members of his own family or any other person or persons to hunt or carry firearms therein, except that if he has reason to believe there are within the game refuge any carnivorous birds or animals, or if he finds any carnivorous birds or animals, he may with the knowledge and written permit from the Game and Fish Commissioner, hunt and kill and trap any and all such carnivorous or unprotected birds or animals found within such game refuge, as by nature injure or kill protected game birds and animals living therein.

§ 38. DEFACING WARNING SIGNS.] The Game and Fish Commissioner shall mark all game farms, game reservations, breeding grounds and resting places under its protection, and no person shall mutilate, destroy, tear or pull down or shoot at such designating marks or other special or general warning signs or cards. It shall also be unlawful to destroy any sign on posted lands. Any violation of this section shall constitute a misdemeanor.

§ 39. ILLEGAL TO HIRE ANOTHER TO HUNT.] No person shall hire another person to hunt for him. No person shall hunt for remuneration for another.

§ 40. TRESPASSING GAME RESERVES.] All islands that have appeared or may appear in the waters of Devils Lake and the Missouri River are hereby reserved, appropriated and set aside as a bird reserve and it shall be unlawful for any person to hunt, shoot, kill, wound or injure any protected bird, or to rob or destroy any protected bird nest or eggs on said reserve at any season of the year. It shall also be unlawful for any person to hunt or trap on the national game reserve in Sullys Hills National Park in Benson County near Devils Lake, or in any other national or state game reserve or game refuge that has been or may be hereafter established within the boundaries of the State.



§ 41. IMPERSONATING GAME WARDENS.] Any person who impersonates a game warden or claims to have such authority, without having been formally appointed as herein provided, shall be guilty of a misdemeanor.

§ 42. USING LICENSE OF ANOTHER.] It shall be unlawful for any person to use the license of another for the purpose for which any licenses are acquired or to attempt to deceive any game warden or other official by claiming such licenses as his own. Such illegal use of licenses shall be a misdemeanor.

§ 43. ILLEGAL HUNTING. ILLEGAL OWNERSHIP OF GUNS OR RIFLES.] It shall be unlawful for any person who is not a citizen of the United States or who has not declared his intention to become such, to hunt, shoot, capture, take, kill, trap, snare or in any manner destroy, wound or maim any wild bird or animal, either game or otherwise, of any description, in this State, except in defense of person or property; and to that end it shall be unlawful for any person who is not a citizen of the United States or who has not declared his intention to become such, to either own or be possessed of a shotgun or rifle of any make, unless he shall first have procured a non-resident hunting or trapping license.

§ 44. PROTECTED FISH. SEASON OF PROTECTION.] No person shall take, catch or kill any of the fish mentioned in this section within the periods herein limited or specified, to-wit: Any species of trout or land locked salmon between the first day of October and the first day of May following, both days inclusive; any species of bass, crappie or sunfish between the first day of November and the fifteenth day of June, following, both days inclusive, or any species of walleyed pike, northern pike, or perch between the first day of November and the fifteenth day of May following, both days inclusive.

§ 45. FISH PROTECTED WHEN PLANTED.] All planted fish or fish eggs placed in the public waters of this state for the purpose of propagation, breeding or growth shall be and are hereby protected for a period of five years from the time of such planting.

§ 46. NETS, SEINES.] No person shall use, set, or have in possession or under control, or upon his premises with intent to use or set any set net or seine, for the purpose of catching or taking any fish from any public waters of this state, except as hereinafter provided.

§ 47. DRUGS AND EXPLOSIVES FORBIDDEN.] No person shall lay, set or use any drug, poison, lime, medicated bait, fish berries, dynamite or other deleterious substance whatever, or lay, stretch or place any tip-up snare, fish trap, set or trout line, wire string, rope or cable of any sort in any of the public waters of this state with intent thereby or therewith to catch, take, kill or destroy any fish; provided, that a minnow seine not exceeding twenty feet in length may be used for taking minnows for bait.

§ 48. FISHWAYS.] Any person owning, erecting, managing or controlling any dam or other obstruction across any river, creek or stream within or forming the boundary line of this State, shall construct, in connection with such dam, a durable and efficient fishway in such manner and of such shape and size as the Game and Fish Commissioner may direct. Such fishway shall be kept in good repair by the person so owning, controlling, managing, operating or using such dam or obstruction. If any person fails to construct or keep in good repair durable and efficient fishways as herein provided, for the space of ten days after notice, the commissioner may construct or repair the same, and the cost thereof may be recovered from the owner or any person managing, or being in control thereof, in a civil action brought in the name of the State of North Dakota. All fishways theretofore or hereafter erected in any dam or obstruction across any of the streams in this state shall at all times be under the supervision and control of the commissioner. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

§ 49. FISHING NEAR FISHWAYS FORBIDDEN.] No person shall catch, take or kill any fish in any lake or stream within four hundred feet of any fishway, or have in his possession or under his control any fish so caught, taken or killed.

§ 50. FISH HOUSES.] No person shall erect, have or maintain on the ice in any waters of this state any fish house, structure, inclosure or shelter whatever to protect the person or the occupant while engaged in fishing through the ice. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

§ 51. SAWDUST DEPOSIT.] Any person who deposits any sawdust or other refuse in any lakes or streams of water wherein the State or Federal Government has deposited any fish, fish eggs or fry, or may deposit any such fry, or where any game fish naturally abound, shall be deemed guilty of a misdemeanor.

§ 52. FISH, MANNER OF TAKING.] No person shall take, catch, kill or destroy in any other manner than by angling for them with hook and line held in the hand or attached to a rod so held, nor more than one line, nor more than one rod, nor more than one hook, or an artificial lure, any fish from any waters in this state; provided that commercial fishing is permitted in the Missouri River, Yellowstone River, Mouse River, and Antler Creek in Bottineau County, in the manner prescribed in this act; provided further, that the Game and Fish Commissioner or some person authorized by him may take with nets, seines, drag nets, dip nets and traps any such fish as buffalo, bullhead, sucker, carp, catfish, redhorse, pickerel or sturgeon from the waters of this state, when in his judgment it is for the best interest of game fish, and fish so taken shall be disposed of at the direction of the Game and Fish Commissioner, and money derived from the disposal thereof be paid into the Game and Fish Fund.

§ 53. COMMERCIAL FISHING, APPLICATION FOR LICENSE AND COST THEREOF.] Any person having procured a fishing license as provided in this act may after having also procured the commercial fishermans' license provided for in this section, fish, catch and take in the Missouri River, Yellowstone River, Mouse River, and Antler Creek in Bottineau County, or any back waters thereof any fish at any time and may use in the taking of such fish in said rivers or any back waters thereof, any net, seine, trap or throw line; provided, however, that no gill net having a mesh smaller than two inches may be used therein. Such commercial fisherman's license shall be issued by the Game and Fish Commissioner and shall be sold for the following fees: \$1.00 for each and every hoop net or trap, \$1.00 for each and every one hundred feet of net or seine, or part thereof, and \$1.00 for each and every set line; and the proceeds from such licenses shall be paid into the Game and Fish Fund. No person fishing under a commercial fisherman's license as provided in this section shall at any time take any protected fish when the taking thereof is prohibited, and if any such protected fish are taken during such prohibited period, the same shall be returned into the waters from which they were taken with as little harm as possible. No person operating under a commercial fisherman's license shall set or cause to be set, or drag, or otherwise operate any net, seine, hoop net, trap or set lines within one thousand feet of any streams emptying into the Missouri River, Yellowstone River, Mouse River, Long Creek in Divide County and Antler Creek in Bottineau County.

§ 54. CREEL AND POSSESSION LIMIT; SIZE LIMIT.] No person shall in any one day take, catch or kill more than five (5) bass, trout or land-locked salmon, nor more than five (5) of any or all of the same combined; nor more than ten (10) wall-eyed pike, northern pike, nor more than ten (10) of any or all of the same combined; nor more than fifteen (15) crappie or sunfish, nor more than fifteen (15) of the same combined; nor more than twenty-five (25) perch. No person shall have in possession at any time more than two days' limit of any protected fish.

No person shall take, catch, kill, or have in possession or under control at any time any species of bass, trout, land-locked salmon, or pike, that are less than ten (10) inches in length; nor any species of crappie that are less than six (6) inches in length; nor any species of sunfish that are less than five (5) inches in length.

Any person catching any protected fish that are under the legal size limit, shall immediately return the same to the water from which they were taken, with as little harm as possible to the fish. Any violation of this section shall be a misdemeanor, and the penalty provided therefor shall be applied for each and every fish taken or had in violation of this section.

§ 55. FISH, SALE OF. No person shall have in possession with intent to sell, barter, or trade to any person at any time any species of trout, crappie, sunfish, bass, pike, perch or land-locked salmon which have been caught within the borders of this State.

§ 56. HUNTING FROM AIRCRAFT PROHIBITED.] An aeronaut or passenger who, while in flight within this state, shall intentionally kill or attempt to kill any birds or animals, except as hereinafter provided, shall be guilty of a misdemeanor; provided that wolves, coyotes, Canadian lynx or bobcats may, with the permission of the Game and Fish Commissioner, be hunted from aeroplanes within this state, such hunting and shooting shall be under the supervision of the Game and Fish Commissioner.

§ 57. ADDITIONAL PROTECTION—GOVERNOR'S ORDERS.]

(1) Whenever the Governor, after investigation and recommendation by the Game and Fish Commissioner finds that any species of game birds, fish or animals for which an open season is provided are in danger of undue depletion or extinction or when necessary for the proper protection during the propagating period, he may by an order provide protection for such species, additional to that provided by law, and to that end may prescribe in what manner, in what number, in what places and at what times the same may be taken. Provided, further, that whenever the Governor, after investigation and recommendation by the Game and Fish Commissioner, finds that any species of game birds, fish or animals has become sufficient in numbers to warrant an open season, he may by order declare an open season thereon, or extend the already open season as now provided by law and to that end may prescribe in what manner, in what number, in what places and at what times the same may be taken. Any order issued by the Governor pursuant to this section shall have the force of law and the appropriate penalties now prescribed by law for the unlawful killing of game shall follow and be applicable to violations of any such order. No such order shall be valid after the closing of the regular session of the legislature next succeeding its issuance.

(2) PUBLICATION OF ORDERS.] All orders, rules and regulations affecting the entire State as provided for herein shall be published once in the official newspaper in each county effective (affected) by such orders. No order, rule or regulation shall take effect until after such publication.

§ 58. USE OF RETRIEVERS AND SPANIELS.] Provided, further that nothing in this Act shall prohibit a resident owner handling retrievers and spaniels on his own land, or the land of others with the permission of the owner, between August 1st and March 1, inclusive.

§ 59. GENERAL PENALTY.] Any person or persons who violate any provisions of this Act for which penalty has not been heretofore specifically provided, shall be guilty of a misdemeanor and upon

conviction be punished by a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) and costs of prosecution, or by imprisonment in the county jail for not less than ten nor more than thirty days or both such fine and imprisonment at the discretion of the Court.

§ 60. REPEAL.] All acts or parts of acts in conflict with this Act are hereby repealed.

§ 10322a1, 19322a2 (10322a2), 10322a4 as amended by Chapter 145, Session Laws of 1927, 10322a5, 10322a6, as amended by Chapter 153, Session Laws of 1927, 10322a7, 10322a8, 10322a9, 10322a10, 10322a11, 10322a12, 10322a13, 10322a14, as amended by Chapter 149, Session Laws of 1927, 10322a15 as amended by Chapter 149, Session Laws of 1927, 10322a16, 10322a17, 10322a18, 10322a19, 10322a20, 10322a21, 10322a22, 10322a23, 10322a24, as amended by Chapter 152, Session Laws of 1927, 10322a25 as amended by Chapter 152, Session Laws of 1927, Section 10322a26 as amended by Chapter 150, Session Laws of 1927, and Chapter 132, Session Laws of 1929, 10322a28, as amended by Chapter 151, Session Laws of 1927, 10322a29 as amended by Chapter 151, Session Laws of 1927, 10322a30, 10322a31, 10322a32, 10322a33, 10322a34, 10322a34a, 10322a35 as amended by Chapter 148, Session Laws of 1927, 10322a36 as amended by Chapter 148, Session Laws of 1927, and Chapter 135, Session Laws of 1929, 10322a37 as amended by Chapter 148, Session Laws of 1927, 10322a38, 10322a39, 10322a40, 10322a41, 10322a42, 10322a43, 10322a44, 10322a45 as amended by Chapter 146, Session Laws of 1927, 10322a46 as amended by Chapter 146, Session Laws 1927, 10322a47, 10322a48, 10322a49, 10322a52, 10322a53, 10322a54, 10322a55, 10322a56, 10322a57, 10322a58, 10322a59, 10322a60, 10322a61, 10322a62, 10322a63, 10322a64, 10322a65, 10322a66, 10322a67, 10322a68, 10322a69, 10322a70, 10322a71, 10322a72, 10322a73, 10322a74, 10322a75, 10322a76, 10322a77, 10322a78, 10322a79, 10322a80, 10322a81, 10322a82, 10322a83, 10322a84, 10322a85, as amended by Chapter 131, Session Laws 1929, 10322a86, 10322a87, 10322a88, 10322a89 and 2971c10 of the Supplement to the Compiled Laws of 1913, as amended by Chapter 133, Session Laws of 1929, Chapter 147, Session Laws 1927, and Chapter 134, Session Laws of 1929 are hereby expressly repealed.

Approved March 14, 1931.

## CHAPTER 149

(S. B. No. 246—Committee on Delayed Bills.)

**TRANSFER "THE BIOLOGICAL STATION" TO CITY OF  
DEVILS LAKE****An Act permitting the transfer by sale or lease, of certain state property.**

WHEREAS, The property known as "The Biological Station" in Ramsey County, is serving no useful purpose either to the State University or the Game and Fish Department, to which it has been transferred, now, therefore

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

§ 1. That the Game and Fish Commission shall, with the approval of the Governor and the Attorney General transfer by sale or lease, to the City of Devils Lake, or its Park Board, the property located in Section Eighteen (18), Township One Hundred Fifty-three (153), North, of Range Sixty-four (64) West of the Fifth (5th) Principal Meridian, in Ramsey County, known as "The Biological Station".

Approved March 11, 1931.

## CHAPTER 150

(S. B. No. 28—Committee on Game and Fish)

**TRAPPING OR KILLING BEAVER, ETC.**

**An Act providing for taking, trapping or killing beaver doing damage to property; giving notice to land owners; and for sale and tagging of pelts to be sold; making unlawful the killing, taking, attempting to take, transporting, selling, or possession of beaver or beaver pelts, except under certain conditions, and prescribing penalty therefor.**

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

§ 1. BEAVER.] No person shall kill, take, attempt to take, transport, or sell any beaver or any part thereof at any time, or molest or disturb any beaver except as hereinafter provided.

(1) In the event that beaver shall at any time in any locality become so numerous that in the judgment of the Game and Fish Commissioner of the State of North Dakota a limited number thereof may be taken without unduly depleting the species, or when they cause substantial damage to public or private property such as to seriously prejudice property rights therein, then and in such case the Game and Fish Commissioner, upon receipt of the license fee of \$3.00 may issue to any land owner or his duly authorized agent a license to take beaver, upon the premises of such land owner, including any State Game Refuge, specifying therein the number of beaver, the time when and the place where the same may be taken.

(2) The licensee shall report to the Game and Fish Commissioner within ten days after the taking of any beaver, the number of beaver so taken by him and shall make application for one tag for each beaver or beaver pelt in his possession, inclosing with his application an express or postal money order in payment of the number of tags applied for. The licensee shall pay the Commissioner a fee of \$1.00 for each tag so issued, and the proceeds thereof shall be paid into the Game and Fish Fund. Such tags shall be prepared and issued by the Game and Fish Commissioner and shall be numbered consecutively and shall contain such other information as said Commissioner may deem expedient or necessary. The Commissioner shall keep a record of each such tag, with its serial number, to whom issued, the date thereof and under what permit issued. The licensee shall immediately on the receipt of such tags affix in the manner designated by the Commissioner one of such tags to each and every beaver or beaver pelt in his possession. Beaver or beaver pelts so taken and tagged, may be bought, sold, had in possession or transported at any time upon compliance with regulations of the Commissioner and all provisions of law relating thereto. It is hereby specifically provided that no licensee shall have in his possession at any time any beaver pelt, longer than twenty days after the taking thereof, unless he shall have secured and affixed thereto such tag. It shall be unlawful for any person to sell, offer for sale, barter, or otherwise dispose of any beaver or beaver pelt unless it shall be so tagged, and it shall be unlawful for any person, partnership, or corporation to buy any beaver or beaver pelt at any time unless it shall be so tagged. It shall be unlawful to ship, transport, accept for transportation, or carry or convey in any manner any beaver or beaver pelt at any time unless the same shall be so tagged. The possession of a beaver pelt, not tagged as heretofore provided and required, shall be prima facie evidence of the unlawful taking of the beaver from which such pelt was procured.

(3) Whenever the Commissioner deems it essential, to the protection of public or private property, to take beaver as provided herein, he shall give to the owner of any land upon which such beaver taking is contemplated, a written notice of such intention and the approximate number of beaver supposed to be taken, such notice to be sent by registered mail to the last known postoffice address of each said owner. Said owner of any such lands proposed to be affected shall thereupon have the first right and privilege, if exercised within ten days after the receipt of the notice from the Commissioner, to make application to trap and take such beaver in the manner hereinbefore provided. Failure of such owner within such ten day period to avail himself of such right shall entitle the Commissioner to grant such license to any other person applying therefor, as provided by this section.

(4) Any person who shall unlawfully take, possess, transport, sell or otherwise dispose of any beaver or any part thereof shall be

guilty of a misdemeanor and shall, upon conviction be punished by a fine of not less than \$25.00 for each beaver, beaver pelt, or any part thereof, or by imprisonment in the county jail for not less than twenty nor more than thirty days, or by both such fine and imprisonment.

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

Approved February 9, 1931.

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## GRAIN

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### CHAPTER 151

(H. B. No. 185—Johnson and Northridge.)

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#### APPLICATION TESTING AND SEALING OF GRAIN—ISSUE AND CANCELLATION WAREHOUSE CERTIFICATES

An Act to amend and re-enact Sections 11 and 16 and repealing Section 13 of Chapter 138 of the Session Laws of North Dakota for 1929, relating to the storage of grain on farms and prescribing the procedure therefor.

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

§ 1. AMENDMENT.] That Section 11 of Chapter 138 of the Session Laws of North Dakota for the year 1929 is hereby amended and re-enacted to read as follows:

§ 11. APPLICATION FOR TESTING AND SEALING OF GRAIN.] Whenever any inspector shall be appointed by the Commissioner in the manner provided herein, any owner of grain within his district desiring to store the same, shall make written application to the Commissioner to be filed with the inspector, indicating where such grain is stored, the kind of structure in which it is stored, the encumbrances upon said grain, if any; and the name and address of the person, firm or corporation to whom the warehouse certificate shall be issued and delivered; which application shall be signed and sworn to by the applicant. Whenever any grain is owned by more than one owner, said application shall be signed by all having any interest therein. In case such grain is mortgaged, the application for inspection shall be signed by the owner and the mortgagee or his or her agent, duly authorized in writing, and any certificate issued for grain owned by more than one person or mortgaged, shall be issued in the name of such persons including the mortgagee.

§ 2. AMENDMENT.] That Section 16 of Chapter 138 of the Session Laws of North Dakota for the year 1929 is hereby amended and re-enacted to read as follows:



§ 16. WAREHOUSE CERTIFICATES—HOW ISSUED—HOW CANCELLED.] It shall be the duty of the Commissioner to issue all warehouse certificates hereunder, except as otherwise provided in Section 25 hereof. All such warehouse certificates issued under the provisions of this Act shall be in triplicate, the original certificate to be printed upon white and the two duplicates upon tinted paper, such original to be delivered to the person, firm or corporation designated in the application, one of the duplicate copies to be retained by the Commissioner, and the other to be filed in the office of the Register of Deeds of the county in which said grain is stored. Both copies of certificates shall have plainly printed or stamped across the face thereof "Duplicate Certificate—No Value". Any owner or owners of grain stored under the provisions of this act, still the holder of the warehouse certificate issued thereon and unpledged and unnegotiated, may procure the release of such grain from storage thereunder by delivering the original warehouse certificate to the Commissioner who shall upon the receipt thereof cancel the same by perforating it with the words "Surrendered and Cancelled". The Commissioner shall notify such original holder or holders of such cancellation, and the receipt of such notice of cancellation by such owner or owners shall be authority to such owner or owners to break the seal and retake possession of the grain in such certificate described. Upon delivery by the owner or owners, to the warehouse certificate holder, of the grain pledged thereby, or upon payment of the obligation for which such certificate has been pledged, the warehouse certificate holder shall be required to cancel and redeliver such certificate to the owner of such grain, such cancellation to be so made by endorsing thereon in ink, the words "Cancelled and Delivered to the owner of the grain", together with the signature of such warehouse certificate holder.

Such owner of grain may upon such cancellation of warehouse certificate, forward such cancelled certificate to the Commissioner, for the purpose of having it cancelled in his office and discharged of record.

The Commissioner shall under his seal notify the Register of Deeds of the County in which the duplicate certificate is filed, to discharge any cancelled certificate of record; and such Register of Deeds is hereby required to so cancel the same, without charge, upon such notice from the Commissioner. All original warehouse receipts so cancelled as above by the Commissioner, shall be retained in the files of his office and a permanent record of such certificate so cancelled shall be kept; such record to show the name of the person or persons to whom the certificate was issued, the number of the certificate, the date of cancellation, and when the certificate cancelled is one surrendered as paid, the name of the person so surrendering and cancelling.

§ 3. REPEAL.] That Section 13 of Chapter 138 of the Session Laws of North Dakota for the year 1929 and all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 9, 1931.

## HIGHWAYS

### CHAPTER 152

(H. B. No. 107—Wilson and Lamb.)

#### CATTLE GUARDS ON PUBLIC HIGHWAYS

An Act authorizing boards of county commissioners and township supervisors to permit the erection of cattle guards on public highways and providing for repair and removal thereof; requiring gates to be closed and providing penalty.

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

§ 1. Whenever the erection of cattle guards is necessary to complete an enclosure which includes land on both sides of any highway in the State of North Dakota, except a highway which has been designated as part of the State Highway system under Chapter 159, Session Laws of North Dakota for 1927 and amendments thereto, the board of County Commissioners may, if the cattle guard is to be erected within unorganized territory of any county, or, the board of township trustees, if the cattle guard is to be erected within an organized township may issue permission to any person, firm or corporation to erect a cattle guard and gateway across said highway upon the conditions hereinafter prescribed.

§ 2. Before any cattle guard and gateway shall be erected across any highway as authorized in the preceding section, the County Commissioners or Township Board, as the case may be, shall approve written specifications of said cattle guard and gateway, which specifications shall be filed with the County Auditor, if approved by the County Commissioners, and with the Township Clerk, if approved by the Township Board.

Said specifications shall include specifications for warning signs to be placed approximately three hundred feet from and plainly visible to persons approaching said cattle guard upon the highway.

The cattle guards herein provided for shall be so constructed as to permit the passage of motor vehicles through and over the same. No cattle guard shall be erected upon any highway in this state unless there is also provided adjacent thereto an ample gateway in which shall be erected a gate which may be easily opened and closed by the public.

§ 3. Any person who shall open and fail to promptly close any gate provided for in this act shall be guilty of a misdemeanor and

shall be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment in the county jail for not more than thirty days, or both.

§ 4. The board having authority under this act to authorize the erection of a cattle guard and gateway hereunder shall also have authority to cause the same to be removed, if the same is not kept in repair, or, if in the judgment of said board it becomes necessary to remove said cattle guard and gateway for the purposes of improving said highway. In event said board determines upon the removal of any cattle guard or gateway as aforesaid, written notice by registered mail shall be sent to the occupant of the enclosure, notifying said occupant to remove said cattle guard and gateway within ten days from the date of mailing. In event said notice is not complied with, the board shall, upon its expiration, be authorized to remove or destroy the cattle guard and gateway.

§ 5. In event that the cattle guard and gateway herein provided for shall be sought to be erected upon any township or county line, the governing boards of the adjacent territory shall exercise joint authority and jurisdiction hereunder and filings herein required to be made shall be made in both jurisdictions.

§ 6. EMERGENCY.] Whereas no adequate provision for regulation of cattle guards exists, be it declared that an emergency exists and this act to be in full force and effect from and after its passage and approval.

March 7, 1931.

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## CHAPTER 153

(S. B. No. 157—Bonzer and Atkins.)

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### STATE HIGHWAY COMMISSION

An Act creating a State Highway Commission, defining its powers and duties and fixing the compensation of the Commission, and repealing Chapter 158, Laws of 1927.

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

§ 1. A State Highway Commission is hereby created and established, which shall consist of three members to be appointed by the Governor, one of whom shall be appointed as Chief Highway Commissioner, who shall be chairman of the commission. Not to exceed two members of said commission shall be appointed from the territory comprising any one of the three congressional districts created by Section 22 of the Political Code of the Compiled Laws of 1913. Each member of said commission shall serve for a term of three years except as otherwise provided herein, and shall be subject to removal by the Governor for neglect of duty or for nonfeasance or malfeasance in office.

Within thirty days after the taking effect of this act, the Governor shall appoint one member of said commission, whose term shall expire on the last day of January, 1932 or when his successor shall have been appointed and qualified; a second member whose term shall expire on the last day of January, 1933 or when his successor shall have been appointed and qualified; and the third member whose term shall expire on the last day of January, 1934 or when his successor shall have been appointed and qualified. All subsequent appointments shall be for a term of three years, except when such appointment is made to fill a vacancy, in which event it shall be for the unexpired term only. All vacancies shall be filled by appointment by the Governor.

Each Commissioner, upon appointment, shall take and file the oath prescribed by law for state officers. The members of the State Highway Commission shall be bonded in the State Bonding Fund; the Chief Highway Commissioner in the sum of twenty-five thousand dollars and each of the other Commissioners in the sum of ten thousand dollars, such bonds to be conditioned for the faithful performance by each member of the duties of his office.

No person appointed as Chief Highway Commissioner shall hold any other office under the laws of this state or any other state or of the United States. He shall reside at the capital of the state and shall devote his entire time to the duties of his office, and shall not hold any position of trust or profit, or engage in any business or occupation interfering or inconsistent with his duties, nor shall he serve on or under any committee of any political party.

§ 2. SALARY AND COMPENSATION.] The salary of the Chief Highway Commissioner shall be five thousand dollars per annum, payable monthly. The other two members of the said Commission shall each receive a per diem of ten dollars for not to exceed one hundred seventy-five days in any one year. In addition to such salary, each of said Commissioners shall receive his expenses actually and necessarily incurred in the performance of the official duties of his office.

§ 3. MEETINGS.] Within ten days after the appointment of said Commission, upon call of the Governor, said Commission shall hold its first meeting at the State Capital at the office of said Commission. Thereafter the Commission shall hold regular monthly meetings. Special meetings may be called by the Chief Highway Commissioner or by a majority of the Commission. The office of the Chief Highway Commissioner shall be open for the transaction of business every day of the year except Sundays and legal holidays, and said Commissioner or whoever may be designated by the Commission may hold sessions or conduct investigations or hearings, at the capital or at any other place within the state when deemed necessary to facilitate the work of the Commission.

§ 4. POWERS AND DUTIES.] The State Highway Commission shall have the full control, management, supervision, administration and direction of the State Highway Department or the State Highway Commission now existing or hereafter created, the office of Registrar of Motor Vehicles and such other offices and duties as may now or hereafter be imposed upon it, or placed under its jurisdiction. All powers and duties now vested or which hereafter may be vested by law in such State Highway Commission, now existing by law or any officer thereof, the State Highway Department, the office of the Registrar of Motor Vehicles or any officer thereof now existing or hereafter created and any other officer, department, bureau or agency placed under the control and direction of the State Highway Commission hereby created, shall be exercised and performed under the direction, control, supervision, management of and with the approval of the State Highway Commission hereby created. It is hereby declared to be the intent and purpose of this Act to make and constitute the State Highway Commission hereby created the final and ultimate authority to carry out the duties and exercise the powers of the departments and offices hereinbefore mentioned.

§ 5. THE CHIEF HIGHWAY COMMISSIONER, HIS POWERS AND DUTIES.] The Chief Highway Commissioner shall be the chief executive and administrative officer of said Commission. He shall have charge of the records of the State Highway Department. He shall cause minutes of the Commission and accurate and complete books of account to be kept, and supervise the signing of vouchers, orders for supplies, materials or any other expenditures. Subject to the supervision and control of the Commission, he shall have authority and it shall be his duty to employ all engineers, assistants, clerks, agents, attorneys and other employees as may be required for the proper transaction of the business of the Commission or of the State Highway Department, fix their titles, determine their duties, the amount of their bonds if any are required, their compensation, and discharge them in his discretion; sign and execute all documents and papers; contracts (contracts) and agreements for highway construction and purchase of machinery, materials and supplies when such contracts or agreements have been awarded and authorized by the Commission. It shall also be his duty to enforce the orders and regulations of the Commission and generally to manage and conduct the business of the Commission and of the State Highway Department under the supervision and direction of the Commission.

The State Highway Commission may appoint an employee of the State Highway Department as its secretary and prescribe his duties.

It shall be the duty of the Chief Highway Commissioner, on or before December fifteenth of each year, to transmit to the Governor a full and complete annual report of the activities of the Commission and the State Highway Department as of December first

of each year. It shall be the duty of the Chief Highway Commissioner to submit a biennial report as now required by law for other departments of the state government.

§ 6. SALARIES OF EMPLOYEES.] The Commission shall not pay to exceed the maximum sums hereinafter stated for the following classes of employees, to-wit: for bookkeepers not to exceed \$2,500.00 per annum; for draftsmen not to exceed \$2,400 per annum; for assistant engineers not to exceed thirty-six hundred dollars per annum; for engineers other than the chief engineer or his first assistant, not to exceed \$4,000 per annum. Provided that the total annual expense for the Highway Department, exclusive of all outside employees, assistants and engineers and inspection and maintenance work shall not exceed the sum on One hundred fifty thousand dollars per annum. Provided further, that during the years 1931 and 1932 the Commission may exceed said maximum limit if necessary to replace records and documents destroyed by the burning of the Capitol. In addition to the salaries fixed by the Commission for said employees they shall be entitled to receive their expenses actually and necessarily incurred in the performance of their duties, the amount of such expenses to be so allowed to be fixed and determined by the Commission.

§ 7. REPEAL.] All Acts or parts of Acts in conflict herewith, including Chapter 158, Laws of 1927, are hereby repealed.

Approved March 11, 1931.

#### CHAPTER 154

(H. B. No. 300—Brunsdale.)

#### AWARD CONTRACTS ROAD AND BRIDGE WORK AND MATERIALS

An Act governing the awarding of certain contracts, determining the lowest bidders thereon and the awarding thereof; and giving preference to resident North Dakota bidders.

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

§ 1. CONTRACTS FOR ROAD AND BRIDGE WORK AND MATERIALS: LOWEST BIDDER: HOW AWARDED IN CERTAIN CASES.] In the letting of any contract for the construction of any road or bridge, road work, or for road material or culvert, by the State Highway Department, or by any political subdivision of the State, when the bid of any contractor or bidder who has maintained a residence and place of business within the State of North Dakota continuously for a period of more than one year prior to the filing of such bid thereon, shall be in approximately the same amount as the lowest bid received thereon, and the party making such low bid, and the principal, if any, of such party, shall not have maintained such residence and place of business within the state during such period;

then in such event, other considerations being equal, the bid of such bidder having such residence and place of business within this state, shall be deemed and held to be the lowest bid, and such contract awarded accordingly.

§ 2. EMERGENCY.] Whereas resident North Dakota contractors bidding upon such work and materials, are entitled to a preference over bidders not residents of this State, this Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 9, 1931.

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## CHAPTER 155

(H. B. No. 262—Halvorson.)

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### CONTRIBUTION CITIES AND VILLAGES TOWARD FEDERAL HIGHWAY CONSTRUCTION

An Act permitting cities and villages to contribute towards the expense of the construction of Federal Aid Highways passing through such cities and villages, to the same extent and in the same proportion that counties are permitted so to do, and authorizing funds for that purpose to be raised through either special assessment or general taxation, and declaring an emergency.

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

§ 1. Cities or villages through their respective boards are hereby authorized and empowered wherever Federal Aid highways are routed through such city or village, to contribute towards the construction or betterment of said highway in the same manner and proportion as counties are by law permitted to so contribute.

§ 2. Said cities and villages are hereby expressly authorized to raise funds for the purpose of meeting their share of said construction or betterment through general taxes to be levied at large throughout said city or village, or, where said highway in the opinion of said city or village board particularly and materially benefits property abutting thereon, to provide said sum through special assessment, the procedure for so doing to be in all things as now provided where improvements are made under the Special Assessment law.

All provisions of law relating to the levying of taxes for internal improvements of villages and cities and the levying of special assessments for such improvements are applicable hereto insofar as they are not inconsistent with the general purpose hereof, namely, to permit said cities and villages to participate in Federal Aid highway construction through and within their limits.

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this bill shall be in full force and effect from and after its passage and approval.

Approved March 9, 1931.

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CHAPTER 156  
(H. B. No. 226—Rulon.)

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MILEAGE STATE HIGHWAY SYSTEM

An Act designating the number of miles of main market, arterial and interstate public roads to be included in the State "Highway System" of the State of North Dakota. Repeal.

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

§ 1. THE STATE HIGHWAY SYSTEM.] The State Highway System of the State of North Dakota consisting of main market, arterial and interstate public roads, as heretofore created, shall not exceed seven per cent of the entire road mileage of the State, whether such roads be township, county or state roads, and in no case shall such highway system exceed 7600 miles in length.

§ 2. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 11, 1931.

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CHAPTER 157  
(H. B. No. 146—Strutz.)

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SETTLEMENT A. M. FORREST CLAIM

An Act authorizing the State Highway Commission to compromise and settle the claim of A. M. Forrest for damages suffered in a collision with a snow plow, operated by an employee of the State Highway Department.

WHEREAS, A. M. Forrest suffered due to a collision on February 3rd, 1930 upon the Public Highways in North Dakota with a snow plow negligently operated by an employee of the State Highway Department; and

WHEREAS, The State Highway Department has no authority to pay out of any of its funds for damages, resulting from accidents or injuries to others, without legislative authority, NOW THEREFORE:

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

That the State Highway Commission is hereby authorized and empowered to compromise and settle the claim heretofore presented to it by A. M. Forrest for a sum not to exceed Three Hundred and



Ninety Six (\$396.00) Dollars, if in the opinion of such Commission, after a full investigation, the facts warrant and justify such settlement.

Approved March 10, 1931.

CHAPTER 158  
(S. B. No. 223—Ettestad.)

**SPEED RESTRICTIONS VEHICLES ON PUBLIC HIGHWAYS**

An Act to amend and re-enact Section 4 of Title II, Chapter 162, of the 1927 Session Laws, relating to the operation of vehicles upon public Highways and restricting the speed.

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

§ 1. AMENDMENT.] That Section 4 of Title II, Chapter 162 of the 1927 Session Laws be amended and re-enacted to read as follows:

§ 4. RESTRICTIONS AS TO SPEED. (a) Any person driving a vehicle on a highway shall drive the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface and width of the highway and of any other conditions then existng, and no person shall drive any vehicle upon a highway at such a speed as to endanger the life, limb or property of any person.

(b) Subject to the provisions of subdivision (a) of this section and except in those instances where a lower speed is specified in this Act, it shall be prima facie lawful for the driver of a vehicle to drive the same at a speed not exceedng the following, but in any case when such speed would be unsafe it shall not be lawful.

1. Twenty miles an hour when approaching within fifty feet of a grade crossing of any steam, electric or street railway when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last two hundred feet of his approach to such crossing he does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred feet in each direction from such crossing;

2. Twenty miles an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours;

3. Twenty miles an hour when approaching within fifty feet and in traversing an intersection of highways when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty feet of his approach to such intersection, he does not have a clear and uninterrupted view of such

intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred feet from such intersection;

4. Twenty miles an hour in traversing or going around curves or traversing a grade upon a highway when the driver's view is obstructed within a distance of one hundred feet along such highway in the direction in which he is proceeding;

5. Twenty-five miles an hour on any highway in a business district, as defined herein, when traffic on such highway is controlled at intersections by traffic officers or stop-and-go signals;

6. Twenty-five miles an hour on all other highways in a business district, as defined herein;

7. Twenty-five miles an hour in a residence district, as defined herein, and in public parks unless a different speed is fixed by local authorities and duly posted;

8. Fifty miles an hour under all other conditions.

It shall be prima facie unlawful for any person to exceed any of the foregoing speed limitations, except as provided in sub-division (c) of this section. In every charge of violation of this section the complaint shall specify the speed at which the defendant is alleged to have driven, also the speed which this section declares shall be prima facie lawful at the time and place of such alleged violation.

(c) Local authorities in their respective jurisdictions are hereby authorized in their discretion to increase the speed which shall be prima facie lawful upon through highways at the entrances to which vehicles are by ordinance of such local authorities required to stop before entering or crossing such through highways. Local authorities shall place and maintain upon all through highways upon which the permissible speed is increased adequate signs giving notice of such special regulations and shall also place and maintain upon each and every highway intersecting any said through highway, appropriate stop signs which shall be illuminated at night or so placed as to be illumniated by the headlights of an approaching vehicle or by street lights.

Approved March 11, 1931.

# ICE CREAM

## CHAPTER 159

(H. B. No. 106—Hamilton.)

### SALE, ETC., OF ICE CREAM

An Act defining imitation ice cream, requiring the licensing of manufacturers, dealers and peddlers thereof, and prescribing penalties for violations of this act.

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

§ 1. Any milk, cream, skim milk, buttermilk, condensed milk, evaporated milk, powdered milk, marshmallow or eggs, or any parts thereof, which is mixed with sugar, flavor or other substance, if made in imitation or semblance of ice cream, or calculated or intended to be sold as ice cream, or for ice cream, and weighing less than four and a quarter pounds avoirdupois per gallon, shall be for the purposes of this act known and designated as "imitation ice cream."

§ 2. It shall be unlawful for any person, firm or corporation, by himself, his or its agent or servant, or as agent of another, to manufacture, sell, exchange or offer for sale or have in possession with intent to sell or offer for sale or exchange, any imitation ice cream in this state without first having obtained a license therefor. Licenses for the manufacturing, retailing or peddling of imitation ice cream shall be granted and issued by the State Food Commissioner. Such license shall be an annual license. The license period shall begin January 1st of each year and all licenses shall terminate December 31st following the date of issuance unless sooner revoked.

§ 3. Any person, firm or corporation making application for a license to manufacture, sell or peddle imitation ice cream shall make such application upon a form prescribed by the State Food Commissioner and shall accompany such application with the complete formula of the article sought to be manufactured, sold or peddled. The State Food Commissioner shall refuse to grant such license whenever in his opinion such imitation ice cream is unfit for human consumption. Each application for license shall show the county in which the licensee seeks to do business, together with the location of the place of business, if the applicant is a manufacturer or retailer. The license shall be good only in the county for which it is issued and shall not be transferable. The State Food Commissioner may revoke any license for violation of any of the provisions of this act. No license shall be issued until the applicant has paid the fee hereinafter provided: Manufacturer, \$100.00; retail dealer, \$50.00; peddler, \$10.00. The term "retail dealer" shall be deemed to mean any person, firm or corporation operating a

store, stand or other place where imitation ice cream is sold to consumers. The term "peddler" shall mean any person selling or vending imitation ice cream direct to the consumer at any other place than at a store, stand or other fixed place of business. Each license shall cover but one manufacturer, retail dealer or peddler, and but one place of business for each manufacturer or retail dealer and one county for a peddler.

§ 4. All moneys received by the State Food Commissioner for licenses issued hereunder, shall be transmitted to the State Treasurer and by him credited to the State Regulatory Fund.

§ 5. Any person, firm or corporation selling imitation ice cream to consumers shall display a sign so placed or carried as to be easily read by the purchasers, which sign shall bear the words "imitation ice cream" in letters at least two inches in height and one inch in width.

§ 6. PENALTY.] Any person violating any provision of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall, for a first offense, be punished by a fine of not less than \$25.00 or more than \$100.00 and for the second and each subsequent offense by a fine of not less than \$100.00 nor more than \$500.00, or by imprisonment in the county jail for not less than ten or more than ninety days, or both such fine and imprisonment. The enforcement of the penal provisions of this act is enjoined upon every officer and official whose duty it is to enforce the laws of this state, and any such officer failing to enforce the same shall be subject to removal from office in the manner provided by law.

§ 7. And it is hereby declared that if any of the provisions of the act or any section thereof in any manner contravene the provisions of the constitution, the remaining provisions would have been enacted by this legislative assembly even though such provisions had been eliminated from the act. Hence, if any of the provisions are found to be violative of the constitution the remaining provisions shall not be affected by such invalidity, but shall remain in full force and effect.

§ 8. EMERGENCY CLAUSE.] An Emergency is hereby declared to exist; therefore this Act is hereby declared to be an Emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 7, 1931.

# INSURANCE

## CHAPTER 160

(S. B. No. 156—Sperry.)

### BURIAL INSURANCE

An Act requiring corporations or associations writing burial insurance to comply with laws governing legal reserve life insurance companies; requiring payment of policies or certificates in money; providing that beneficiary or legal representative of member of burial society may accept funeral or burial services instead of money; providing for enforcement of act by Commissioner of Insurance; providing penalties for failure to comply with act and repealing inconsistent acts.

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

§ 1. Every corporation or association, including insurance companies and burial associations or societies, whether organized under the laws of this state or any other state, before engaging in the business of writing burial insurance or providing for the payment of burial or funeral expenses or the furnishing of funeral supplies or burial services, shall be required to comply with all the laws of this state governing the organization, qualification and conduct of legal reserve life insurance companies, including the making of annual reports, the maintaining of proper reserves, the deposit of securities with the State Treasurer to secure the payment of its obligations, and any and all other laws applying thereto, except that the amount of cash or securities deposited with the State Treasurer by such corporation or association shall be dependent upon the number of members and the amount of burial insurance which such company or association may carry, but in no event shall such deposit be less than Ten Thousand Dollars (\$10,000.00), and if the maximum amount of all of the policies or certificates outstanding at the end of any year shall exceed Ten Thousand Dollars (\$10,000.00), such deposit shall be increased Two Thousand Dollars (\$2,000.00) for each Five Thousand Dollars (\$5,000.00) of policies or certificates above Ten Thousand Dollars (\$10,000.00).

§ 2. It shall be unlawful for any such company or association, referred to in Section 1 of this act, to make payment or settlement of any policies or certificates written for any such purpose in this state or payable to anyone in this state, in merchandise or services rendered or agreed to be rendered, and any burial benefit or award provided for by such policy or certificate shall be payable in the currency of the United States of America, and no member of any burial insurance association or society or any legal representative or beneficiary of such member shall be obliged to purchase funeral supplies or burial services from any specified or designated person,

firm or corporation so as to deprive such member, legal representative or family from procuring such supplies or services in the open market, provided, however, that nothing in this act shall be construed to prevent such beneficiary, relative or legal representative of a deceased member from electing to accept funeral or burial services from such society in lieu of money.

§ 3. Any person, firm, corporation or association which is now engaged in writing burial insurance of any kind whatever, by contract or by virtue of the provisions of any by-law or regulation of such corporation or association, shall within thirty days after the taking effect of this act comply with the provisions of Section 1 of this act, and upon the failure of any such corporation or association to do so, the Commissioner of Insurance of this state shall be, and he is hereby authorized to cancel the license of such corporation or association to engage in the business of writing burial insurance in this state.

§ 4. Any person, firm, corporation or association which shall hereafter engage in the business of writing burial insurance, or which is now so engaged, and which after the lapse of thirty days from the taking effect of this act, shall fail to comply with the provisions of Section 3 hereof, shall be guilty of a misdemeanor and shall be subject to a fine of not less than Twenty Dollars (\$20.00) and not more than Fifty Dollars (\$50.00) for each and every day that it continues to conduct said business in violation of the provisions of this act.

§ 5. Any corporation or association which shall fail to comply with the provisions of this act, shall be liquidated by the Commissioner of Insurance pursuant to the provisions of law regulating the liquidation of legal reserve life insurance companies, providing that this act shall not apply to mutual, or fraternal benefit societies.

§ 6. 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.

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

Approved March 11, 1931.

CHAPTER 161  
(S. B. No. 154—Fine.)

**ADMISSION OF FOREIGN MUTUAL INSURANCE COMPANIES**

An Act requiring a surplus of \$45,000 as condition to admission of foreign mutual insurance companies.

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

§ 1. No foreign mutual insurance company shall hereafter be admitted for transaction of business in this state until it shall have accumulated assets in excess of all liabilities in an amount not less than Forty-Five Thousand Dollars, (\$45,000.00).

Approved March 9th, 1931.

CHAPTER 162  
(H. B. No. 153—Muus and Swett.)

**INSURANCE PUBLIC BUILDINGS, CLASSIFICATION AND  
LIMITATION OF AMOUNT**

An Act to amend and re-enact Sections 189c3 and 189c13 of the Supplement of the 1913 Compiled Laws of North Dakota as amended by Chapter 173, of the Session Laws of 1927, relating to insurance on public buildings, permitting insurance to be written against loss by hail on public buildings, fixing rates of premium to be charged, and providing for the classification of all public property, and limiting the amount of insurance to be carried by the State Fire and Tornado Fund.

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

§ 1. That Section 189c3 of the Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 173 of the Session Laws of 1927, be and the same is hereby amended and re-enacted to read as follows:

§ 189c3. INSURANCE PROVIDED. RATE OF PREMIUM.] On or between July 1st and August 1st, 1931, and annually thereafter, the Commissioner shall provide for the insurance in the State Fire and Tornado Fund, and in some reliable Fire and Tornado Insurance Company or Companies doing business in the State of North Dakota, as hereinafter provided, or all state property subject to destruction by fire or tornado, for an amount not to exceed ninety per cent (90%) of the actual value of the property, as such value is determined by the Commissioner and the officer or board having control of such property, and for such purpose the Commissioner of Insurance is hereby designated and constituted the custodian of said property. Upon special written request by the officer or board, the Commissioner of Insurance may provide for insurance against loss by hail, in the same manner and form and on such property as is

insured against loss by fire and tornado, as provided herein. The Commissioner shall first determine the insurable value of each article of property and then fix the rate of premium at 75% of the rates promulgated by the General Inspection Bureau.

§ 2. That Section 189c13 of the Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 173 of the Session Laws of 1927, be and the same is hereby amended and re-enacted to read as follows:

§ 189c13. CLASSIFICATION AND LIMITATION OF RISK.] It shall be the duty of the Insurance Commissioner to classify all property reported to him under the provisions of Sections 1, 2, 3, 4, 5 and 6 of this Act, into four distinct classifications as hereinafter set forth, and to provide insurance thereon in the State Fire and Tornado Fund and with some reliable fire and tornado insurance company or companies, authorized for the transaction of such business in this state, in accordance with the limitations shown under each classification.

CLASS I. All of the following described property is hereby designated as Class I, and the entire risk of all insurance carried upon the same shall be by the State Fire and Tornado Fund.

“A” Fire-proof building with fire-proof roof.

“AX” Fire-proof building, with combustible roof.

CLASS II. All of the following described property shall be designated as Class II, and no single risk thereon in an amount greater than One Hundred Thousand Dollars (\$100,000.00) shall be carried by the State Fire and Tornado Fund.

“B” Brick, stone or concrete building, with gravel, slag, metal, slate, tile or composition, or other approved roof.

“BX” Brick, stone or concrete building, with shingle, board or unapproved composition roof.

CLASS III. All of the following described property is hereby designated as Class III, and no single risk thereon in an amount greater than Seventy-five Thousand Dollars (\$75,000.00) shall be carried by the State Fire and Tornado Fund.

“E” Hollow-concrete-block, concrete block or hollow tile building (with or without 4-inch facing), with gravel, slag, metal, slate, tile or approved composition, or other approved roof.

“EX” Hollow-concrete block, concrete block or hollow tile building (with or without 4-inch facing), with shingle, board, or other unapproved composition roof.



CLASS IV. All of the following described property is hereby designated as Class IV, and no single risk thereon in an amount greater than Twenty-five Thousand Dollars (\$25,000.00) shall be carried by the State Fire and Tornado Fund.

"D" Frame building, with gravel, slag, metal, slate, tile or approved composition or other approved roof.

"DX" Frame building, with shingle, board or unapproved composition roof.

"IC" Frame, wood-sheathed, iron-covered building with gravel, slag, metal, slate, tile or approved composition, or other approved roof.

"ICX" Frame, wood-sheathed, iron-covered building, with shingle, board or unapproved composition roof.

"SIC" Skeleton wood frame, without wood sheathing, iron-covered building with gravel, slag, metal, slate, tile or approved composition, or other approved roof.

"BV" Brick, stone, or hollow-block veneered building, with shingle, board or metal slate, tile or approved composition or other approved roof.

"BVX" Brick, stone, or hollow-block veneered building, with shingle, board or unapproved composition roof.

"P" Frame, plaster or stucco covered building, with gravel, slag, metal, slate, tile or approved composition or other approved roof.

"PX" Frame, plaster or stucco covered building, with shingle, board or unapproved composition roof.

"S" Skeleton steel (incombustible) construction with incombustible roof.

"SS" Skeleton steel construction with combustible roof covered with gravel, slag, metal, slate, tile, approved composition or other approved roof covering.

"SSX" Skeleton steel construction with combustible roof covered with shingle board or unapproved roof covering.

Approved March 10, 1931.

## CHAPTER 163

(H. B. No. 149—Swett.)

## PREMIUM STATE FIRE AND TORNADO INSURANCE

An Act to amend and re-enact Section 189c14 of the Supplement to the 1913 Compiled Laws of the State of North Dakota, relating to collection of premiums, and payments for fire and tornado insurance placed with fire and tornado insurance companies by the Commissioner of Insurance, and providing for deposit or investment of the State Fire and Tornado Fund.

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

§ 1. AMENDMENT.] That Section 189c14 of the Supplement to the 1913 Compiled Laws of the State of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 189c14. COLLECTION OF PREMIUM. INVESTMENT BY STATE TREASURER.] The Commissioner of Insurance shall collect from the state or the political subdivision thereof, the entire premium for all the insurance and deposit it in the State Fire and Tornado Fund, as herein provided, and shall draw his warrant upon the State Treasurer against the State Fire and Tornado Fund for the amount of premium due upon that portion of the insurance placed with such reliable fire and tornado insurance company or companies.

The State Treasurer shall deposit the State Fire and Tornado Fund in approved state depositories at the usual rate of interest paid on other funds of the state, subject to check, but whenever there is in such checking account more than \$50,000 the State Treasurer shall deposit same upon time certificates of deposit drawing the same rate of interest as other state funds deposited upon time certificates, or such funds may be invested upon the recommendation of the Commissioner of Insurance in bonds of any state or of the United States. Provided further such funds may be invested in bonds of political subdivisions of the State of North Dakota, but investments in bonds of such political subdivisions shall at no time exceed twenty-five per cent of the amount of the fund and must be bonds of political subdivisions with an assessed valuation in excess of Two Million Dollars (\$2,000,000).

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

Approved March 10, 1931.

## CHAPTER 164

(H. B. No. 150—Muus and Swett.)

**READJUSTMENT OF STATE INSURANCE PREMIUMS**

**An Act to amend and re-enact Section 189c9 of the Supplement to the 1913 Compiled Laws of North Dakota, as amended by Chapter 174 of the Session Laws of 1927, relating to readjustment of premiums.**

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

§ 1. AMENDMENT.] That Section 189c9 of the Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 174 of the Session Laws of 1927, be and the same is hereby amended and re-enacted to read as follows:

§ 189c9. REFUNDS OF PREMIUMS.] If and when the State Fire and Tornado Fund shall exceed the sum of \$2,000,000.00 the amount of surplus in excess of the said sum of \$2,000,000.00 shall be refunded to the State, Departments of State, State Institutions, Agencies of the State, Counties, School Districts, Townships, Cities and Villages in proportion to the total amount of premiums charged, less return premiums and premium adjustments allowed.

The amount of refund allowed to each assured as herein provided shall be based on the total premium charged, less returned premiums and premium adjustments allowed to each assured respectively. Provided that the Commissioner of Insurance shall on January first of each uneven numbered year, or as soon thereafter as possible, determine from the surplus on hand, the amount to be refunded to each assured, and make such refunds in accordance with the foregoing provisions.

Approved March 10, 1931.

## CHAPTER 165

(H. B. No. 102—Rulon and Erickson of Kidder.)

**BENEFICIARIES FRATERNAL BENEFIT SOCIETIES**

**An Act amending and re-enacting Section 5063 of the Compiled Laws of the State of North Dakota for the year 1913, relating to the regulation and control of the payment of death benefits by fraternal benefit societies.**

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

§ 1. AMENDMENT.] That Section 5063 of the Compiled Laws of the State of North Dakota for the year 1913, is hereby amended and re-enacted to read as follows:

§ 5063. BENEFICIARIES.] The payment of death benefits shall be confined to wife, husband, relative by blood to the fourth degree, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather,

stepmother, stepchildren, children by legal adoption, to a person or persons dependent upon the member, or to a person or persons upon whom the member is dependent, or to the members estate; provided, that if after the issuance of the original certificate the member shall become dependent upon an incorporated charitable institution, he shall have the privilege with the consent of the society to make such institution his beneficiary. Within the above restrictions, each member shall have the right to designate his beneficiary, and from time to time have the same changed in accordance with the laws, rules and regulations of the society, and no beneficiary shall have or obtain any vested interest in the said benefit until the same has become due and payable upon the death of the said member; provided, that any society may, by its laws, limit the scope or beneficiaries within the above classes.

Approved March 18, 1931.

## CHAPTER 166

(H. B. No. 104—Rulon and Erickson of Kidder.)

### BENEFITS FRATERNAL BENEFIT SOCIETIES

An Act amending and re-enacting Section 5062 of the Compiled Laws of the State of North Dakota for the year 1913, relating to the regulation and control of benefits provided by fraternal benefit societies.

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

§ 1. AMENDMENT.] That Section 5062 of the Compiled Laws of the State of North Dakota for the Year 1913, is hereby amended and re-enacted to read as follows:

§ 5062. BENEFITS.] Sub-section 1. Every society transacting business under this Act shall provide for the payment of death benefits, and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease, accident, or old age; provided, the period of life at which the payment of benefits or disability on account of old age shall commence, shall not be under seventy years, and may provide for monuments or tombstones to the memory of its deceased members, and for the payment of funeral benefits. Such society shall have the power to give a member, when permanently disabled or on attaining the age of seventy, all, or such portion of the face value of his certificate as the laws of the society may provide; provided, that nothing in this Act contained shall be so construed as to prevent the issuing of benefit for a term of years less than the whole of life, which are payable upon the death or disability of the member occurring within the term for which the benefit certificate may be issued. Such society shall, upon written application of the member, have the power to accept a part of the periodical contributions in cash, and charge the remainder, not exceeding one-half of the periodical contribution,

against the certificate with interest payable or compounded annually at a rate not lower than four per cent per annum; provided, that this privilege shall not be granted except to societies which have readjusted or may hereafter readjust their rates of contributions, and to contracts affected by such readjustment.

Sub-section 2. Any society which shall show by the annual valuation hereafter provided for that it is accumulating and maintaining the reserve not lower than the usual reserve computed by the American Experience Table and four per cent interest, may, in addition to these benefits provided in Sub-section 1 of this section, issue endowment certificates, grant to its members extended and paid up protection, or such withdrawal equities as its constitution and laws may provide; provided, that such grants shall in no case exceed in value the portion of the reserve to the credit of such members to whom they are made.

Approved March 18, 1931.

## CHAPTER 167

(H. B. No. 103—Rulon and Erickson of Kidder.)

### FAMILY PROTECTION FRATERNAL BENEFIT SOCIETIES

An Act amending and re-enacting Section 5070a of the Compiled Laws of the State of North Dakota for the year 1913, relating to the regulation and control of insurances and annuities upon the lives of children by fraternal benefit societies.

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

§ 1. AMENDMENT.] That Section 5070a of the Supplement of the Compiled Laws of the State of North Dakota for the year 1913, is hereby amended and re-enacted to read as follows:

§ 5070a. FAMILY PROTECTION.] Any fraternal benefit society authorized to do business in the State of North Dakota, and subject to supervision, regulation and examination by the Insurance Commissioner, may provide in its by-laws, in addition to other benefits provided for therein, for insurance and/or annuities upon the lives of children at any age, to be issued upon the application of some adult person as the by-laws of such society may provide.

(a) Any such society may at its option organize and operate branches for such children, and membership in local lodges, and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society.

(b) The contributions to be made upon such certificates shall be based upon the "Standard Industrial Mortality Table Three and One-Half Per Cent" or the "English Life Table Number Six," or such other mortality table as may be approved by the Insurance Commissioner.

(c) Any society issuing such benefit certificates shall maintain on all such certificates the reserve required by the standard of mortality and interest adopted by the society for computing contributions as provided in subdivision (b) hereof.

(d) A society shall have full power to provide for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith, not at variance with the provisions of this Act, including the means of enforcing payment of contribution, designation of beneficiaries, and the changing of such designations.

Approved March 18, 1931.

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## CHAPTER 168

(H. B. No. 200—Flannigan.)

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### LICENSE EXEMPTIONS OF CERTAIN BENEFIT SOCIETIES

An Act to amend and re-enact Section 5088 of the Compiled Laws of the State of North Dakota for the year 1913, defining exemption of certain societies.

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

§ 1. AMENDMENT.] That Section 5088 of the Compiled Laws of the State of North Dakota for the year 1913 be amended and re-enacted to read as follows:

§ 5088. EXEMPTION OF CERTAIN SOCIETIES.] Nothing contained in this act shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows or Knights of Pythias, (exclusive of the insurance department of the Supreme Lodge Knights of Pythias) and the Junior order of the United American Mechanics, (exclusive of the beneficiary degree of insurance branch of the National Council Junior Order United American Mechanics, or societies which admit to membership only persons engaged in one or more hazardous occupations in the same or similar lines of business, nor to similar societies which do not issue insurance certificates, nor to an association of local lodges of a society now doing business in this state which provides death benefits not exceeding five hundred dollars to any one person or disability benefits not exceeding the three hundred dollars in any one year to any one person, or both, nor to any contracts of reinsurance business on such plan in this state, nor to domestic societies which limit their membership to the employes of a particular city or town, designated firm, business house or corporation, nor to domestic lodges, orders, or associations of a purely religious, charitable and benevolent description, which do not provide for a death benefit of more than one hundred dollars, or for disability benefits of more than one hundred and fifty dollars to any one person

in any one year. The Commissioner of Insurance may require from any society such information as will enable him to determine whether such society is exempt from the provisions of this act.

Any fraternal benefit society heretofore organized and incorporated and operating within the definition set forth in Sections 5059, 5060 and 5061 of the Compiled Laws of North Dakota for 1913 providing for benefits in case of death or disability resulting solely from accidents, but which does not obligate itself to pay death or sick benefits may be licensed under the provisions of this act, and shall have all the privileges and shall be subject to all the provisions and regulations of this act, except that the provisions of this act requiring medical examinations, valuations of benefit certificates, and that the certificates shall specify the amount of benefits, shall not apply to such society.

Approved March 11, 1931.

#### CHAPTER 169

(H. B. No. 101—Rulon and Erickson of Kidder.)

#### QUALIFICATIONS MEMBERSHIP FRATERNAL BENEFIT SOCIETIES

An Act amending and re-enacting Section 5064 of the Compiled Laws of the State of North Dakota for the year 1913, relating to the regulation and control of the qualifications for membership in fraternal benefit societies.

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

§ 1. AMENDMENT.] That Section 5064 of the Compiled Laws of the State of North Dakota for the year 1913, is hereby amended and re-enacted to read as follows:

§ 5064. QUALIFICATIONS FOR MEMBERSHIP. Any society may admit to beneficial membership any person not less than sixteen and not more than sixty years of age, who has been examined by a legally qualified physician, and whose examination has been supervised and approved in accordance with the laws of the society, or, in lieu of a medical examination, persons may be admitted to beneficial membership upon such showing of eligibility as the laws of the society may provide; provided, that any beneficiary member of such society who shall apply for a certificate providing for disability benefits, need not be required to pass an additional medical examination therefor. Nothing herein contained shall prevent such society from accepting general or social members.

Approved March 18, 1931.

## CHAPTER 170

(H. B. No. 282—Traynor.)

## HAIL INSURANCE, INDEMNITY TAX, ETC.

An Act to amend and re-enact Sections 189b5, 189b7, 189b8, 189b9, 189b10, 189b11, 189b12, 189b13, 189b15, 189b20, 189b21, 189b22, 189b23, 189b25, 189b29, 189b30, of the Supplement to the Compiled Laws of 1913, relating to state hail insurance; providing for the collection of hail-indemnity insurance taxes by sale of lands at tax sale and for the issuance of hail-indemnity tax sale certificate, the expiration of period of redemption; providing for the issuance of hail-indemnity tax deed and declaring an emergency.\*

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

§ 1. AMENDMENT.] That Section 189b5 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b5. CROPS INSURED.] The crops insured under this Act shall consist of crops grown on cultivated lands, listed as actually cropped subject to the payment of the taxes specified in this Act. The following crops may be insured: Rye, wheat, speltz, barley, oats, flax, corn, buckwheat, millet, sweet clover, alfalfa and cane. The insurance herein provided shall in no event become effective on winter rye and winter wheat before 12 o'clock noon, Central Standard Time, of June 1st and shall not become effective on any other crops before 12 o'clock noon of June 10th of any year, subject to the provisions of Sections 9, 11 and 24 of this Act. Provided that no indemnity shall be allowed for loss to winter rye and winter wheat which occurs later than 12 o'clock noon, Central Standard Time, of September 1st of each year, and flax and corn shall be considered insured up to 12 o'clock noon, Central Standard Time, September 15th of each year; on all other crops the protection shall cease 12 o'clock noon of September 10th of each year.

§ 2. AMENDMENT.] That Section 189b7 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b7. INDEMNITY TAX.] The Commissioner of Insurance shall, on or before the 15th day of October of each year, ascertain the amount which is required for the total (total) payment of all loss caused by hail to crops insured by the Department and a sum sufficient to pay interest on certificates of indebtedness, or for interest at the rate of 6 per cent per annum on all indemnity warrants from date of registration until called for payment by the State Treasurer if such warrants are not payable in cash when issued, and for any anticipated refunds or abatements of taxes, plus a sufficient sum to maintain and operate the Department for the succeeding year, and for the

\*No emergency in act!



purpose of securing and paying of same, there is hereby levied each and every year an indemnity acreage tax sufficient to cover said amounts on all insured lands as specified in this Act, but in no event shall the total of such levy exceed ten per cent of the total risk for the State carried by the Department for such year. The Commissioner of Insurance shall determine the rate of the levy for the indemnity tax or premium and certify the same to the several County Auditors, and in preparing the tax lists for each year the County Auditors of the several counties shall enter in such list opposite the description of each tract, parcel or subdivision of land insured with the State Hail Department, the hail indemnity tax or premium charged against said land, using the basis for computation of such tax the premium rate certified by the Commissioner of Insurance. Provided that when the \$10.00 per acre insurance is carried the indemnity tax shall be as much greater than the tax for \$7.00 per acre protection as ten is greater than seven. Such premium for state hail insurance protection shall be a lien against the whole of said tract, parcel or subdivision of land as provided in Section 5 of this Act. Such tax or premium shall become due and payable at the same time as general taxes, and be delinquent at the same time as the first installment of general taxes, except that said premium shall be paid as a whole, and not in installments.

For the purpose of levying the acreage indemnity tax the state is hereby divided into five districts, the composition of which is to be determined by the Commissioner of Insurance and the Manager of the Hail Insurance Department at the time levy for hail indemnity tax is determined. The basis for districting shall be the actual cost of the protection in each county for the then current year as determined by the amount of indemnity allowed and the acreage insured within each county. District No. 1 shall be comprised of all such counties showing for each year an actual cost of not more than 1% of the risk carried; District No. 2 an actual cost of over 1% but not more than 3%; District No. 3 an actual cost of over 3% but not more than 5%; District No. 4 an actual cost of over 5% but not more than 7%; District No. 5 an actual cost of over 7%. When such levy for hail indemnity tax is made, each of the five districts shall be considered a unit; however, the rate and actual per acre cost of such indemnity tax levied shall be based on the following proportions or ratios between the districts: First District, 3; Second District, 5; Third District, 6; Fourth District, 7; Fifth District, 8. Provided that if the total amount necessary for indemnity tax for any one year equals more than 10 per cent of the risk carried by the Department for such year, in order that losses may be paid in full, the Commissioner of Insurance may use any moneys in the surplus of the Hail Insurance Fund to pay such difference between the moneys actually obtained by the levy for hail indemnity tax and the amount actually needed to pay all such legal indemnities for each year, and the Commissioner of Insurance shall in the following or any succeeding year,

or years, when the indemnity for hail losses as above provided is not in excess of an average of 10 per cent of the risk carried by the Department, include in the levy for hail indemnity tax such sum, or sums, as may be necessary to reimburse the surplus fund for such moneys borrowed from such fund. All moneys collected under the provisions of this section shall be paid into the State Hail Insurance Fund.

§ 3. AMENDMENT.] That Section 189b8 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b8. NOTICE TO COUNTY AUDITORS.] After the Commissioner of Insurance shall have determined the amount of said indemnity acreage tax he shall forthwith notify the County Auditor of each county of such levy, and the County Auditor shall spread such indemnity tax on the tax rolls for the purpose as provided in Section 189b7 of this Act. Such indemnity tax shall be collected by the Treasurer of said County and shall be kept in a separate fund to be known as the State Hail Insurance Fund.

§ 4. AMENDMENT.] That Section 189b9 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b9. DUTY OF ASSESSORS; WRITING THE PROTECTION.] It shall be and is hereby made the duty of each and every assessor in the State, each within his respective district, each and every year at the time of the listing of property for assessment, "to inquire of the person whose property is assessed, or the legal occupant, whether or not he has any crops growing or to be grown during such year, and if he has any such crops, whether or not he desires to have such crops or any part thereof insured against loss by hail under the provisions of this act for the year in which said assessment is made. Such assessor shall at that time explain fully to said person the provisions of this act relative to amount of insurance per acre, the time within which notice of loss must be given, and the time and manner of paying premiums and indemnities. The assessor shall furnish such person an application blank in triplicate for state hail insurance and solicit him to insure his crops under the provisions of this act. If such person desires to insure any or all of his crops the assessor shall then and there take his application, in triplicate, on forms of application furnished by the Commissioner of Insurance. Such application may be taken by the assessor at any time before loss and before the last Monday in June of the year for which said insurance is desired. Provided that if such application is approved by the Hail Insurance Department the insurance shall be effective twenty-four hours after the time of filing of the application in the office of the County Auditor. Immediately after the last Monday in June the assessor shall forward to the County Auditor of his county the balance of his hail insurance listing supplies." All applications shall be

made in triplicate and shall carefully describe each piece of land to be insured, describing particularly the quarter section or subdivision thereof, the number of the section, the township and range with acreage, description of and location of the different kinds of crops to be insured. Each application shall also show the interest of applicant in such crop. Provided, however, that the occupant, if same be a tenant, may make application as owner's agent if he has written authority and files such written authority with his application. The information contained in such application shall be furnished by the applicant and shall be binding on him. Provided, however, that such applicant may amend such application as to kind of crop and location thereof at any time before July 6, and before loss, by notifying the Hail Insurance Department thereof by registered mail.

At the time of taking the application herein provided for, the assessor shall endorse on each copy thereof the date and hour of same and shall forward by mail on such date the triplicate copy to the County Auditor of his county and the original and duplicate copies to the Commissioner of Hail Insurance at Bismarck; all such applications shall be subject to the approval of the Commissioner of Insurance. Immediately upon receipt and checking of such original and duplicate copies in the office of the Hail Insurance Department the Commissioner of Insurance shall, if he approves the same, cause to be stamped and endorsed thereon his receipt and approval of same and shall return the duplicate copy to the applicant which duplicate copy thus endorsed shall constitute the policy of insurance under the provisions of this act and shall entitle the applicant to the protection thereof. The application shall be the basis of computing the premium for hail insurance which shall be charged against the land on which such crops are grown, except as further provided in this act.

The assessor in addition to other compensation allowed him according to law, shall be entitled to compensation for his services at the rate of one cent per each acre on approved applications listed and reported by him in accordance with the provisions of this act. Such compensation shall be paid out of the Hail Insurance Fund on vouchers issued by the Commissioner of Insurance and approved by the State Auditing Board.

If, for any reason, any person having crops growing or to be grown, fails to make application with the assessor for hail insurance, as herein provided, he may at any time before twelve o'clock noon on the first day of August make application for such insurance by filing the same with the County Auditor or directly with the Hail Insurance Department. In case the first day in August falls on Sunday, the applicant may file his application at any time before twelve o'clock noon the following day. Upon taking such application the County Auditor shall retain the triplicate copy in his office and shall

mail the original and duplicate thereof to the Commissioner of Insurance. The provisions of this section which apply to the assessor in taking application, shall also as far as applicable, apply to the County Auditor, except that no compensation shall be allowed to the County Auditor.

§ 5. LIEN OF HAIL INDEMNITY TAXES.] The lien of hail indemnity taxes charged against real estate shall, except as to general taxes and special assessment taxes, have priority over any and every judgment, mortgage or other lien or claim whatsoever placed on record against such real property, except that the lien for hail indemnity taxes for a subsequent year shall have priority, over hail indemnity tax liens formerly charged and spread. Such hail indemnity tax lien shall take effect from and after the date of receipt of application for insurance in the office of the County Auditor.

§ 6. AMENDMENT.] That Section 189b10 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b10. COLLECTION OF TAXES.] (1) The hail indemnity taxes provided for in this act shall be collected by the County Treasurer of the various counties in the state as other taxes are collected, and all sums arising from penalty and interest on account of non-payment of such taxes shall accrue to and become a part of the State Hail Insurance Fund. Provided that premiums for special policies issued shall be collected by the State Hail Insurance Department direct.

It is further provided that it shall be the duty of the County Treasurer of each and every county in the state to remit to the State Treasurer all moneys collected under the provisions of this act each month, on or before the 15th day of the following month, and the State Treasurer shall, upon the first day of each month, report to the Commissioner of Insurance the condition of the State Hail Insurance Fund. Before paying any losses arising under this act, the Commissioner of Insurance shall deduct from such payments, the taxes or premiums due the Hail Insurance Fund under provisions hereof not only for the then current year's protection, but also such as may have accrued and are unpaid from previous years as certified to the State Hail Insurance Department by the various County Auditors. After making such deductions from the indemnities the State Hail Insurance Commissioner shall certify the same to the County Auditors, and the County Auditors and the County Treasurers shall use such deductions so listed as authority for striking part or all of such current or delinquent taxes from the tax rolls.

Hail-indemnity taxes may be paid separately without payment of other general taxes so as to allow owners or croppers to secure state hail insurance protection on crops grown on lands on which taxes are unpaid at the time protection is applied for. When any land is advertised for sale for the non-payment of taxes, the general taxes

and hail-indemnity taxes shall be advertised and sold separately and a separate tax sale certificate shall be issued for that part representing delinquent hail-indemnity taxes which shall be designated as a "Hail-Indemnity Tax Sale Certificate," which certificate shall be substantially in the following form:

CERTIFICATE OF SALE FOR HAIL INDEMNITY TAXES

I.....Auditor for the County of..... in the State of North Dakota do hereby certify that the following described real estate in said County and State to-wit: (describing the same) was on the.....day of.....A. D. 19..... sold by me in the manner provided by law for the delinquent hail indemnity taxes thereon for the year....., amounting to .....dollars, including interest and penalty, and the costs allowed by law to..... for the sum of.....dollars, he being the bidder who agreed to accept the lowest rate of interest from the date of sale on the amount of such taxes, penalties and costs so paid by him, and that the rate of interest which said purchaser agreed to accept was.....per cent per annum.

I further certify that unless redemption is made of said real estate in the manner provided by law the said..... or assignee will be entitled to a deed therefor after the.....day of.....A. D.....on the surrender of this certificate.

In witness whereof I have hereunto set my hand and seal this .....day of.....A. D. 19.....

Signature.....  
(Seal) County Auditor of.....NorthDakota.

In case there are no bidders, the land shall be struck off to the county and the certificate of sale issued to the county shall conform as nearly as may be to the form above set forth.

§ 7. RIGHTS OF HOLDER OF HAIL TAX CERTIFICATE.] The holder of the hail indemnity tax certificate shall be entitled to a hail indemnity tax deed three years from the date of the tax sale at which the property was sold for such hail indemnity taxes, upon giving the statutory notice of expiration of period of redemption. The form of notice of expiration of period of redemption and the procedure for giving and serving such notice shall conform as nearly as may be to the form and procedure prescribed by law with reference to notice of expiration of redemption from a tax sale certificate. A hail indemnity tax sale certificate shall have the effect of conveying all the rights, interests, privileges and title which would be conveyed by a mortgage deed to the premises described in such certificate. The procedure prescribed by Sections 2223 and 2224 of the Supplement to the Compiled Laws of 1913 and acts amendatory thereof, shall be

followed, as nearly as possible; and in case redemption is not made, such deed shall be issued in the same manner as a tax deed is issued under a tax sale certificate pursuant to a regularly conducted tax sale of real estate, and such hail-indemnity tax deed shall have the same force and effect as a sheriff's deed issued pursuant to the provisions of the statute in case of foreclosure of a real estate mortgage.

§ 8. HAIL INDEMNITY TAX DEED.] At the expiration of the time for redemption of lands sold for delinquent hail-indemnity taxes, and after the filing of the proof of notice of expiration of period of redemption made in substantially the form and manner provided in Sections 2223 and 2224 of the Supplement to the Compiled Laws of 1913 and acts amendatory thereof; and on production of the certificate of purchase, the County Auditor of the county in which the sale of such lands took place, shall execute to the purchaser, his heirs or assigns, in the name of the state, a deed of the land remaining unredeemed, which shall vest in the said purchaser, his heirs or assigns, an absolute estate in fee simple in such land, subject, however, to all the claims which the state may have thereon for taxes or other liens or encumbrances and subject to judgments, mortgages or other liens placed on record prior to the date when such hail-indemnity taxes were entered against such real property, and subject to the lien for hail-indemnity taxes which have accrued since the date when the real estate therein described was sold for the hail-indemnity taxes therein mentioned. Such deed shall be executed by the County Auditor under his hand and the seal of the county, and such deed shall be conclusive evidence of the truth of all of the facts therein recited and shall be prima facie evidence of the regularity of all the proceedings from the date when the hail-indemnity tax therein mentioned were entered and extended against such land. Such deed shall be substantially in the following form:

Whereas.....did on the.....day of.....A. D. 19.... produce to the undersigned..... County Auditor of the County of.....in the State of North Dakota.....a certificate of purchase, in writing, bearing the date of the.....day of..... A. D. 19....., signed by....., who at the last mentioned date was County Auditor of said county, from which it appears that.....did on the.....day of..... A. D. 19....., purchase at public auction at the office of the County Auditor (or the usual place of holding court in the same building), that tract of land in this indenture described, which tract was struck off and sold to.....for the sum of..... dollars, being the total amount of hail-indemnity taxes, penalties and costs charged against said land specified in the lists and in the advertisements, constituting a lien thereon for the year (or years),

19.....to-wit: (Herein insert the description of the land offered for sale) ; and that the said.....who at the time and place of said public auction, did as a part of his bid, did agree to accept the lowest rate of interest on the amount of such hail indemnity taxes, penalties, and costs so paid by him, to-wit: the rate of.....per cent per annum; and it appearing that the said.....is the legal owner of the said certificate of purchase; and the time fixed by law for redeeming the land herein described having now expired, and proof of legal notice of expiration of period of redemption having been filed in the office of the County Auditor prior to the maturity of such certificate as provided by law, and said land not having been redeemed from such purchase pursuant to law, and the said.....having demanded a deed for the tract of land mentioned in said certificate; and it appearing that said lands were legally liable for such hail-indemnity taxes and that said hail-indemnity taxes had been duly entered and extended thereon and properly charged on the hail-indemnity tax book, or duplicate, for the year (or years) A. D. 19..... and that said lands had been legally advertised for said hail-indemnity taxes and were sold on the.....day of.....A. D. 19..... to the said.....

*Now, Therefore, This Indenture Made* this.....day of..... A. D. 19.....between the State of North Dakota, by..... as County Auditor of the said county, party of the first part; and the said.....party of the second part:

*Witnesseth,* That the said party of the first part, for and in consideration of the premises and the sum of one (1) dollar in hand paid, has granted, bargained and sold, and by these presents does grant, bargain, sell and convey unto the said party of the second part, .....his heirs, and assigns, forever, the tract.....of land mentioned in said certificate, and described as follows, to-wit:.....

.....in.....County in the State of North Dakota.

*To Have and to Hold Said* mentioned tract....., of land, with the appurtenances thereunto belonging, to the said party of the second part, his heirs and assigns forever, in as full and ample manner as the said County Auditor of said county is empowered by law to sell the same.

*In Testimony Whereof,* The said.....as county auditor of the said County of....., has hereunto set his hand and seal of the said county, on the day and year aforesaid.

.....  
 Signature  
 (Seal) Conuty Auditor of.....  
 Attest Seal North Dakota.

§ 9. AMENDMENT.] That Section 189b11 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b11. CROP AFFIDAVIT. INSURABILITY AND LIENS.] In making application for State Hail Insurance as provided by Section 189b9 of this act, the owner, tenant or cropper, shall furnish the complete information required in the application blank, and he shall be bound by such information. If lands are bought on contract, the contract owner shall be deemed the party responsible for the payment of the hail taxes or premiums and the record of title owner, in such case, shall not in any way determine as to whether or not such insurance should be carried and his rights under such contract shall not be impaired or diminished on account of such hail indemnity insurance. Provided, however, that if such record or title owner so consents, the hail tax lien shall attach to his interest in such land. Where the cropper is a tenant, he shall, in making applications for state hail insurance, secure the owner's consent in writing to such application but such consent may be filed on separate forms or letter to be made a part of the application. It is further provided that every lease, oral or written, on lands subject to hail insurance tax, hereafter made, shall be deemed to include, as a covenant and agreement on the part of the lessee or cropper, an undertaking to pay his share of hail insurance premiums properly chargeable against the land, and the landlord shall have a first lien upon all the crops grown upon the land, belonging to any such tenant or share cropper as security for the payment of said premiums, unless the contrary shall be clearly expressed in writing and made a part of the lease. Every vendee or mortgagee of crops grown on rented land shall be charged with notice of such lien. Such lien may be enforced in the same manner as chattel mortgage and with like effect or the amount thereof may be subjected to other provisions of the contract relative to the division of the crop. The owner shall also have a first lien chargeable against tenant's share of hail indemnity as security for payment of tenant's share of such tax, but, to be effective, notice of such lien must be filed with the Commissioner of Insurance before indemnity for loss is certified to the State Auditor. No regular application for hail insurance as above provided shall be approved by the Commissioner of Insurance where the records of the County Auditor as certified to the Commissioner of Insurance show unpaid hail-indemnity taxes against such premises, except where the then present owner makes proof that he is not responsible for payment of such unpaid hail taxes levied against the lands. Provided, however, that for the year 1931 such applications shall be acceptable where it is shown on the records that not more than one year's hail-indemnity tax is unpaid.

On May 15th of every year the sheriffs of each and every county in the state shall furnish the Hail Insurance Commissioner a list of sheriff's certificates in his county, issued on foreclosure



of mortgages, and on which the period of redemption extends through part or all of the then current cropping year. Provided that listings for insurance on such premises shall in no event be approved by the Commissioner of Insurance. Special policies may, however, be issued for insurance in all cases not insurable on regular listings if proper applications in accordance with provisions of Section 24 of this act be filed with the Hail Insurance Department direct.

§ 10. AMENDMENT.] That Section 189b12 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b12. WITHDRAWAL.] Whenever, before loss by hail and on or before the 6th day of July of any year, there shall be a total or partial failure or loss of any crops herein described, due to any agency other than hail, the insured may cancel his hail insurance for the part of the season remaining subsequent to said 6th day of July by filing notice of cancellation in duplicate with the State Hail Insurance Department at Bismarck, in the manner and form as the Commissioner of Insurance may determine; and in such cases where lands are rented, the signatures of both the owner and tenant must appear on the notice of cancellation, except where either the owner or the tenant, or both, have been insured separately, in which case, only the signature of such owner or of such tenant shall be required on his respective notice of cancellation. Such cancellation shall be effective from 12 o'clock noon, central standard time, on the date executed; however, no application for such cancellation shall be accepted by the Commissioner of Insurance unless received in the office of the Hail Insurance Department before 5 o'clock P. M. on July 9th of any year. Such notice of cancellation shall specify acreage and kind of crop and legal description of the premises upon which such crops were sown; provided, that in no case shall any less than the entire acreage of any one kind of crop on any legal description as described in the application for insurance filed with the Hail Insurance Department for the current year, be cancelled. Provided further, that in the event of such cancellation the earned premium in the cases of the different crops shall be the percentage of the annual premium as follows:

Rye or winter wheat.....	60%
Barley and oats.....	50%
Wheat, speltz, buckwheat, flax.....	40%
Corn and other crops.....	30%

and the same liability shall exist for the payment of such earned premiums as in the case of the annual premium hereinbefore provided; and in the event the insured shall have paid a cash premium, he shall be entitled to a refund of the unearned premium based on the percentage above set forth, with (which) refunds shall be paid on approval of the Commissioner of Insurance out of the State Hail Insurance Fund in the same manner as indemnity for loss.

§ 11. AMENDMENT.] That Section 189b13 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b13. ADDITIONAL DUTIES OF COUNTY OFFICIALS, ABSTRACTS OF RECORDS.] As soon as possible after the hail-indemnity tax rates have been ascertained, the Commissioner of Insurance, through the Hail Insurance Department, shall file with the County Auditor of each county, a complete list of descriptions of lands within such county upon which the State Hail Insurance Department has carried the protection for the then current season, such based on the regular applications for hail insurance on file in his office, the cancellation thereof or changes made therein. The County Auditor shall use such list as the basis for spreading the hail indemnity tax on the records. Provided, it shall be the duty of the County Auditors and County Treasurers to make proper corrections on their records, and to cause deductions of hail taxes to be made from time to time upon receipt of certification from the office of the Hail Insurance Department. It shall be the duty of the County Auditors, upon the filing of application for insurance, to ascertain from his records and the records of the County Treasurers the amount or amounts of unpaid hail taxes due and delinquent on lands covered by such application, and forward a statement of the same immediately to the Commissioner of Insurance. Such delinquent tax notification, as well as other reports in connection with the hail insurance work, shall be made by the various officials on forms prepared by the Commissioner of Insurance and it is hereby provided that it shall be a part of the official duties of any county official to furnish to the State Hail Insurance Department information necessary or convenient in accomplishing the purposes of this act. Provided, that each county shall receive the sum of \$1.00 per each 1000 acres listed for \$7.00 per acre protection for the season, such amount to be paid out of the State Hail Insurance Fund prior to December 31st on vouchers issued by the Commissioner of Insurance approved by the State Auditing Board. The State Hail Insurance Department shall pay annually the sum of \$2,000.00 to the General Fund of the State on account of the extra work entailed upon the State Auditor's and State Treasurer's offices by the State Hail Insurance Department.

§ 12. AMENDMENT.] That Section 189b15 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b15. AMOUNT OF INDEMNITY.] The maximum amount of indemnity for total loss shall be either \$7.00 per acre or \$10.00 per acre, as the application for insurance may specify. Provided, however, that if the original application calls for \$7.00 per acre insurance, the insured may before loss and before July 15th make application to the Hail Insurance Department for an additional \$3.00

per acre protection. Such application shall be made out in duplicate upon forms prepared and furnished by the Commissioner of Insurance and mailed directly to the Department at Bismarck, and if approved by the Commissioner of Insurance, the duplicate of such application shall be returned to the maker and considered his policy of insurance. Such application shall contain the legal description of the land, the kind of crops and the acreage of same on which additional insurance is desired. The location of such crops shall also be given upon a diagram on the application blank, and such application shall contain a statement to the effect that such crops have not been damaged or destroyed by hail. Provided further, that such application shall be signed by the applicant and shall be acknowledged by the assessor or sworn to before someone authorized to administer oaths. If the applicant is a tenant, the signed consent of the person liable for the taxes authorized by this act must appear upon such application, and if the owner makes such application, the written consent of the tenant must appear thereon. If either owner or tenant, in filing such application, acts as agent one for the other, a written authorization shall be attached to the application. Such applications are subject to the approval of the Commissioner of Insurance.

In no event shall such additional insurance become effective before application is on file in the office of the Hail Insurance Department. Provided, that no indemnity shall be allowed to any claimant for a loss of less than 10% and a loss of 85% shall be deemed a total loss. There shall be no claim allowed for any loss or damage to crops except such as is traceable to hail. Provided that no indemnity shall be allowed or paid for damage to any crop after it is cut, nor on any abandoned crop.

§ 13. AMENDMENT.] That Section 189b20 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b20. DIVERSE INTEREST IN CROP.] In case of diverse ownership of interest in any crop upon which indemnities are allowed, proof of the percentage of interest in the award shall be made to the Commissioner of Insurance by affidavit or other showing under such rules and regulations as the Commissioner may provide, and the award shall be disbursed to the owner of the land, tenant or to the different claimants as their interests may appear, or by joint warrants. Provided that interest in indemnity shall follow the direct interest in the crop. If land is bought on crop payment plan under which the title owner is to receive a certain part of the crop each year, indemnity shall be distributed to him in the same proportion as his interest in the crop or joint warrant, if proper showing has been made to the Department during the then current year and before awards have

been certified to the State Auditor for issuance of warrants. Provided that ownership on account of liens and mortgages, garnishment, levy, execution and any other legal process shall not be considered a direct interest.

§ 14. AMENDMENT.] That Section 189b21 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b21. ISSUANCE OF WARRANTS.] The Commissioner of Insurance shall certify to the State Auditor a list of claimants, or their assigns, entitled to indemnity for losses, with names, addresses, and amounts for which warrants are to be issued. Provided that the adjustments approved shall be certified for payment within fifteen (15) days after such adjustments are approved. Prior to such certification the Commissioner of Insurance shall deduct from the indemnity any amount due the State Hail Insurance Fund from the claimant as certified by the county auditor. He shall first deduct the current hail indemnity taxes if ascertained at that time, and then unpaid hail taxes for prior years. If such hail indemnity taxes for the then current year are not determined when payment of indemnity is made, the Commissioner shall deduct from the indemnity a sum by him considered sufficient to cover that year's hail tax, but in no event more than fifteen per cent (15%) of the total risk covered by the policy. Any amount deducted in excess of actual premium and other legal deductions by the Department shall be repaid the claimant within a reasonable time after the hail indemnity tax rate has been determined. Provided that any net indemnity of less than one dollar (\$1.00) shall be paid the claimant direct by postage stamps and a record shall be kept of such payments. Upon receipt of list of persons entitled to hail indemnity, the State Auditor shall draw warrants upon the State Treasurer, payable out of the State Hail Insurance Fund, for such amounts and in favor of such persons or parties entitled thereto; which amounts shall be charged to the State Hail Insurance Fund; such warrants to be mailed by the State Hail Insurance Department to the persons interested, or in case of joint warrant to one of such persons. The warrants become due and payable immediately upon issue and shall draw no interest unless in case of necessity arising for the registry of such warrants for lack of funds, in which event warrants shall draw interest at the rate of six per cent (6%) per annum from date of registration.

§ 15. AMENDMENT.] That Section 189b22 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b22. INDEMNITY EXEMPT FROM GARNISHMENT.] The indemnity provided for herein shall be exempt from garnishment, levy, execution, attachment, and any other legal process whatsoever

(except as provided in Section 189b11 of this act), but may be assigned in such manner and form as the Commissioner of Insurance may determine.

§ 16. AMENDMENT.] That Section 189b23 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b23. HAIL INSURANCE FUND.] All moneys collected under the provisions of the State Hail Insurance Law shall be turned over to the State Treasurer and shall be kept in a separate fund to be designated "State Hail Insurance Fund." Provided, that a sufficient amount shall at all times be retained in the State Hail Insurance Fund to meet the current expenses of the State Hail Insurance Department, as certified by the Commissioner of Insurance, and all the expenses of conducting the Department and the payment of all losses provided for under the provisions of this act shall be paid out of such fund as hereinbefore or hereinafter provided, and all of said moneys so collected are hereby appropriated for the purpose of carrying out the provisions of the hail insurance law.

Whenever the moneys in the State Hail Insurance Fund are insufficient to pay warrants drawn, or about to be drawn, upon such fund in payment of hail losses, the Commissioner of Insurance, with the approval and assistance of the Industrial Commission, may and hereby is vested with authority to negotiate a loan or loans upon the best terms possible. The proceeds of such loan or loans shall be turned over to the State Treasurer and by him placed in the State Hail Insurance Fund and disbursed accordingly. In order to negotiate such loan or loans, the Commissioner of Insurance, with the assistance and approval of the Industrial Commission, may issue warrants, debentures, or certificates of indebtedness in such amounts, and payable at such times as is deemed advisable. Such warrants or certificates of indebtedness shall be drawn upon the State Treasurer and shall be payable out of the State Hail Insurance Fund. All warrants or certificates of indebtedness so issued shall be countersigned by the State Auditor and he shall enter the same upon his records as obligations issued against and payable out of the State Hail Insurance Fund. If bonds are used as security by the Hail Insurance Department when loan is obtained it shall not be mandatory to issue certificates of indebtedness based on anticipated collections of hail taxes. The State Treasurer shall pay all such warrants of certificates of indebtedness or contracted debt out of any moneys in the State Hail Insurance Fund properly applicable thereto. The State Treasurer shall deposit all funds received under the provisions of this act so as to draw the rate of interest most advantageous to the State Hail Insurance Department, and all interest so earned shall accrue to the State Hail Insurance Fund. The State Treasurer shall deposit such moneys in the depository bank designated by law for state

funds except that with the assistance and approval of the Commissioner of Insurance part of such funds may be invested in bonds or certificates of indebtedness issued by the State of North Dakota, and such securities shall have the approval of the Attorney General as to the form and legality thereof.

§ 17. AMENDMENT.] That Section 189b25 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b25. INSURANCE OF HOMESTEAD AND INDIAN LANDS; ISSUANCE OF OTHER SPECIAL POLICIES.] The Hail Insurance Department may insure crops grown upon homestead lands on which patent has not been issued and also on lands within the boundaries of Indian reservations, also on lands not otherwise subject to taxation, or which are not insured in the regular manner according to the provisions of this act. In any case where crops are not covered by an approved application in accordance with provisions of Sections 189b9 and 189b11 of this act, any party having a direct interest in such crops may apply for insurance on his proportionate share of such crops according to the provisions of this section. The applications covering such special insurance, shall be made upon blanks furnished by the Commissioner of Insurance under such rules and regulations as he may direct, and shall be accomplished (accompanied) by a certified check or draft in payment of the premium at the rate of seventy cents per acre for \$7.00 protection, or the proportionate part thereof, according to the interest the insured has in the crop. Provided, however, the Commissioner of Insurance shall, when crops are insured under the provisions of this section, refund after the actual per acre levy has been ascertained, such amounts to such applicants as will make the cost per acre the same for crops insured under the provisions of this section as the cost per acre within the same county to those who carry the insurance in the regular manner, and premium for which is determined in accordance with Section 189b7 of this act, and the Commissioner of Insurance shall certify to the State Auditor a list of names to whom such refunds are due and the amounts of same, and thereupon the State Auditor shall issue warrants on the State Treasurer for payment of same out of the State Hail Insurance Fund. Such warrants shall be mailed by the Hail Insurance Department to the parties who, according to the records, are entitled thereto.

§ 18. AMENDMENT.] That Section 189b29 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b29. ABATEMENT OF HAIL INSURANCE TAX AND CORRECTION OF RECORDS.] The Commissioner of Insurance may make proper correction of the hail insurance tax records on applications submitted to him in the manner and form he shall determine. In cases

of erroneous listings of lands for hail insurance purposes, before the Commissioner may approve the correction, proofs satisfactory to him shall first be submitted. Provided, that such applications, in order to be considered, must be filed before the levy for hail indemnity tax be determined for that year, and before adjustment of loss, if any, for such year is made. Provided, further, that in all such cases where holders of superior liens have on proper showing paid general taxes without the inclusion of the hail indemnity tax, and where such taxes still remain of record, when three (3) years have elapsed after passing of title on foreclosure of such superior liens without the premises reverting to the original owner, such hail indemnity taxes shall be cancelled from the records of the counties and the Hail Insurance Department. Provided, further, that as far as pertains to hail taxes for any year prior to 1931, the county commissioners, with the approval of the Commissioner of Insurance, may in case of error abate any hail insurance tax wrongfully levied and refund any tax wrongfully collected under the provisions of this act upon presentation to them of a written application.

§ 19. AMENDMENT.] That Section 189b30 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 189b30. LIMITING TIME OF ACTION.] The Commissioner of Insurance is hereby vested with discretionary powers to extend for a reasonable period the time for reporting hail loss to the Department upon proper showing being made, but in no event shall adjustment be made on loss notices received in the office of the Hail Insurance Department after the 25th day of September of the year in which the loss occurred. Provided, that no action upon any claim for loss by hail shall be brought after one year from the time the loss occurred and no action for a refund of hail taxes shall be brought after three (3) years from the 31st day of December of the year for which such tax was levied. Provided, further, that any warrant in payment of hail indemnity that is unpaid on the books of the Hail Insurance Department and State Auditor six (6) years after date of issue shall be cancelled. Provided, that thirty (30) days before such cancellation, the Commissioner of Insurance shall cause to be published at least once in the official paper of the county in which the damaged crops were located, a list of such warrants that are to be cancelled. Upon cancellation of such warrants, proper credits shall be shown on the records of the Hail Insurance Department. Provided that the Hail Insurance Commissioner shall not be required to keep on file records more than six years old, except that in such cases where according to the records of the Hail Insurance Department and the State Auditor warrants in payment of indemnity have not been presented for payment, the adjustment shall be kept in the files of the department indefinitely.

§ 20. CONFLICTING PROVISIONS REPEALED, INCLUDING CERTAIN PROVISIONS NOT AFFECTING WHOLE OF ACT.] If any provisions of this act shall be held invalid, the other provisions therein shall not be affected, and the law now in force relating to the same subject shall continue in full force and effect. Provided that any act or parts of acts in conflict with any of the provisions of this act are hereby expressly repealed.

Approved March 9, 1931.

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## CHAPTER 171

(H. B. No. 87—Lamb.)

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### HAIL TAX REFUND

An Act to amend and re-enact Chapter 172 of the Session Laws of North Dakota for the year 1927 as amended by Chapter 147 of the Session Laws of North Dakota for the year 1929; providing for a refund to hail tax purchasers and persons paying hail taxes for which they were not liable; designating the funds from which payment shall be made; and declaring the duty of the Insurance Commissioner in relation thereto.

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

§ 1. AMENDMENT.] Chapter 172 of the Session Laws of North Dakota for the year 1927 as amended by Chapter 147 of the Session Laws of North Dakota for the year 1929, is hereby amended and re-enacted to read as follows:

§ 1. Whenever any lands have been sold for hail taxes to purchasers other than the counties, and it develops that they were subject to a paramount lien and such lien is foreclosed and the purchaser's rights under his tax certificate cut out, such purchaser, or his assigns, shall be refunded the amount of the sale, with interest at the rate of five per cent per annum, by the Hail Insurance Department as hereinafter provided.

§ 2. The holder of the certificate must make application for the refund to the Commissioner of Insurance, tendering his certificate and an assignment thereof to the Hail Insurance Department and making proof satisfactory to the Commissioner of Insurance that the title to the land has been lost under a paramount lien and that he has not been compensated in any way for the money paid for the certificate. Upon being so satisfied, the Commissioner of Insurance shall refund to the holder such amount, with interest. Upon making any such refund the Commissioner shall take an assignment of the certificate in trust for the benefit of the Hail Insurance Department, and in case the tax debtor ever becomes the owner of the land affected the tax represented by such certificate shall again attach as a lien upon his interest.



§ 3. Any holder of a lien paramount to the hail indemnity tax lien who, prior to July 1st, 1926, has paid under compulsion hail indemnity taxes in connection with the payment of general taxes against the land covered by his lien, which hail indemnity taxes have been paid over by the County Auditor or Treasurer to the State Treasurer to the credit of the Hail Insurance Department, or to the tax sale certificate holder, as the case may be, shall be entitled to have refunded to him from the Hail Insurance Department the amount paid by him on account of such hail indemnity taxes, upon filing application and proof as hereinafter provided, but no interest shall be considered to have accrued thereon from the time of such payment by said lien holder; provided that anyone who has paid hail indemnity taxes under compulsion for and on behalf of the paramount lien holder shall be considered the agent of such lien holder.

§ 4. Such paramount lien holder mentioned in the last preceding section must make application for refund to the Commissioner of Insurance, tendering his tax receipt containing a notation thereon by the County Auditor showing amount of such hail indemnity tax, penalty and interest paid by him, and an assignment thereof to the Hail Insurance Department, and make satisfactory proof to the Commissioner of Insurance that at the time he or his agent paid the said taxes the hail indemnity tax, penalty and interest thereon noted by said County Auditor did not constitute a valid lien paramount to lien held by him. Upon being satisfied of such facts the Commissioner of Insurance shall refund to said lien holder the amount of said hail taxes, penalty and interest paid by him, and shall also issue him a certificate showing the amount of general taxes, penalty and interest which remains as an additional lien to the credit of said taxpayer's mortgage. Upon making such payment and certificate the Commissioner shall take an assignment of the tax receipt in trust for the benefit of the Hail Insurance Department so far as it relates to said indemnity hail tax, and in case the title of the land affected passes and again reverts to the original mortgagor the hail indemnity taxes shall again attach as a lien upon his interest.

§ 5. Such refunds to certificate holders and to holders of paramount liens who paid hail indemnity taxes for which they were not liable shall be made from the following funds, to-wit: A reserve fund that has been set aside or otherwise created or treated as existing in the Hail Insurance Department as a fund to meet anticipated refunds, or abatements of the indemnity hail taxes, and the fund created by interest collected on all interest bearing funds, of the State Hail Insurance Department for the year 1927, and successive years. These funds shall be resorted to in order stated to whatever extent may be necessary to make all such refunds.

§ 6. No claim for a refund by a tax certificate holder shall be allowed unless presented within one year after the lien of such tax certificate has been lost except where holders of sheriff's deeds did not redeem the taxes within one year after such deed was due to issue in which case the tax certificate holder shall be allowed 60 days after such tax redemption to apply for refund. Provided, however, that in cases where such loss has occurred prior to July 1st, 1931, the claim may be presented at any time up to January 1st, 1932. No claim for a refund of taxes paid by mortgagee who was holder of paramount lien as provided for in Section 4 of this act shall be allowed unless made before January 1st, 1932. Provided further that where general taxes have been redeemed prior to the expiration of six years from the tax sale by a lien holder and the tax sale certificate holder continued or continues to hold the same for the "hail-indemnity tax" without having applied for deed thereon, even though more than six years have elapsed, since the sale upon which said certificate was issued, the provisions of Section 2 hereof shall apply and same shall be refunded.

§ 7. At each succeeding session of the legislature the Commissioner of Insurance shall make a report to the legislature of the refunds made under the provisions of this act, together with the fullest practical statement of probable outstanding claims, together with an estimate of the amounts that will be required in succeeding years to meet the requirements of this act.

§ 8. Whereas some question of constitutionality may become involved as to the right to resort to some of the funds herein mentioned for the purpose to which it is sought to apply them, it is especially declared that the resort to any particular fund is not the inducement for the resort to any other fund mentioned, and that if any such part of this act shall be held to be unconstitutional it is the purpose and intent that all other parts shall nevertheless be valid and enforceable.

Approved March 9, 1931.

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CHAPTER 172

(S. B. No. 31—Magnuson.)

**PREMIUM, LIABILITY, ETC., MUTUAL INSURANCE COMPANY**  
An Act to amend and re-enact Section 4874, Compiled Laws of 1913, as amended by Chapter 150, Session Laws of 1929, relating to Domestic Mutual Insurance Companies.

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

§ 1. AMENDMENT.] That Section 4874, compiled laws of 1913 as amended by Chapter 150 Session Laws for 1929 be, and the same is, hereby amended and re-enacted to read as follows:

§ 4874. PREMIUM, CONTINGENT LIABILITY STATED ON POLICY.] Mutual insurance companies other than life shall charge and collect upon their policies the full mutual premium in cash or notes, and may by their by-laws fix the contingent mutual liability of its members for the payment of losses and expenses not provided for by their cash funds; provided, that such contingent liability of a member shall not be less than a sum equal to, and in addition to the cash premium written in his policy; provided, further, that in case said premium be not so paid in cash or unconditional notes within sixty days from the date of issue, the policy shall become and be absolutely void and to remain void during the non-payment of such premium, and upon payment of the premium as above provided, such policy shall re-attach; provided, there has been no loss while the policy was void. Provided, however, in case such mutual insurance company has issued a policy and attached thereto a mortgage clause making loss, if any, payable to the mortgagee to the extent of his interest and not exceeding the amount of the policy, such company shall be liable on the policy to such mortgagee until the secretary of the company notify the mortgagee in writing that premium and contingent mutual liabilities have not been paid and the mortgagee is given twenty days after the date of such notice in which to pay such premium and liabilities, in default of such payment the liability of the company to the mortgagee shall cease. The total amount of the liability of a policy holder shall be clearly and legibly stated upon the back of each policy.

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

Approved March 2, 1931.

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## CHAPTER 173

(S. B. No. 57—Magnuson and Lynch.)

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### REINSURANCE BY COUNTY OR DISTRICT MUTUAL INSURANCE COMPANIES

An Act authorizing county or district mutual insurance companies to reinsure its risks.

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

§ 1. Any County or District Mutual Insurance Company organized or admitted to transact insurance in this State may reinsure any part or all of any risk or risks in any insurance company or insurer licensed in any state of the United States or in the District of Columbia, or any such County or District Mutual Insurance Companies may reinsure with each other; provided that no such

reinsurance shall be effected with any company or insurer disapproved therefor by written order of the Commissioner filed in his office.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

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

Approved March 9, 1931.

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## INTOXICATING BEVERAGES

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### CHAPTER 174

(H. B. No. 47—Halcrow and Twichell.)

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#### PROHIBITING INTOXICATING BEVERAGES

An Act to amend and re-enact Section 10145b4, of the 1925 Supplement to the Compiled Laws of 1913, prohibiting intoxicating beverages.

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

§ 1. AMENDMENT.] That Section 10145b4 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, be amended and re-enacted to read as follows:

§ 10145b4. PROHIBITING INTOXICATING BEVERAGES.] No person shall within the State manufacture, sell, barter, transport, import, export, deliver, furnish or possess any intoxicating liquor, except as provided by this chapter. All provisions of this chapter shall be liberally construed to the end that the use of intoxicating liquor as a beverage may be prevented. Provided that pure grain or ethyl alcohol for non-beverage purposes for use in hospitals, laboratories, medical clinics, and for manufacturing and industrial purposes, may be purchased, transported, possessed and used within the State of North Dakota, in good faith only, by any person holding a Federal permit for the purchase, transportation, possession and use thereof, in such amounts, in such manner and for such purposes, as are permitted under Federal regulations applicable thereto; and that wine for sacramental purposes, may in good faith only, be purchased, transported, possessed and used as by law provided. It is further provided, that denatured alcohol or denatured rum; medical preparations that are unfit for beverage purposes; patented, patent and proprietary medicines that are unfit for beverage purposes; toilet, medical and anti-septic preparations and solutions that are unfit for beverage purposes; vinegar; flavoring extracts and syrups that are unfit for use as a beverage, or for intoxicating beverage purposes; together with those United States Pharmacopeia and National Formulary and

American Institute of Homeopathy preparations fit for beverage purposes, which can only be used by physicians and druggists for compounding purposes as hereinafter provided, may be manufactured, sold, purchased, transported, imported, exported, delivered, furnished and possessed only to be used for any legitimate non-beverage purposes and such preparations and other alcoholic compounds and solutions shall not be sold or used for beverage purposes or sold under circumstances from which the seller may reasonably deduce an intention on the part of the purchaser, to use the same for beverage purposes.

Approved March 7, 1931.

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## LIENS

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### CHAPTER 175

(H. B. No. 179—Cox.)

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#### GARAGE KEEPERS STORAGE LIEN

An Act to provide for a lien for garage keepers for the storage of motor vehicles; providing for the foreclosure of said liens, and the recording of the same.

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

§ 1. All persons engaged in the business of keeping a garage or place for the storage or (of) motor vehicles, and who, in connection therewith store, or keep, any motor vehicle at the request or with the consent of the owner, or person lawfully in possession thereof, whether such owner be a conditional vendee or a mortgagor remaining in possession, or otherwise, shall have a lien upon such motor vehicle, or any part thereof, for the reasonable charges for such storing, and may retain the possession of such motor vehicle or any part or accessory thereof, until such charge shall have been paid, provided, that if such storing is furnished pursuant to an agreement for an agreed price, such lien shall be for the sum so agreed upon.

§ 2. That notwithstanding the voluntary surrender of the motor vehicle, or any part thereof, upon which the lien is claimed, the person who stores or keeps such motor vehicle shall have a lien thereon for his reasonable or agreed charges for the said storing or keeping thereof; if at any time within sixty days after such surrender of possession a statement be filed in the office of the Register of Deeds of the proper county as hereinafter provided, the lien provided for herein shall be subject and inferior only to mortgages and conditional sales contracts properly filed on or before the time when the property comes into the possession of the lien claimant; provided, that any person having possession of any motor vehicle for storage, may

upon the failure of the owner or person who placed said vehicle in his possession for storage, to pay the storage charges therefor, after ten days, remove said vehicle from his garage or other place of storage, without liability to the possessor or owner thereof for such removal.

§ 3. The statement mentioned in the preceding section shall contain the name and postoffice address of the lien claimant; the name of the person requesting the storage or keeping of such motor vehicle; the name of the owner, if known; an itemized account of the charges for which the lien is claimed, and a description of the property upon which the lien is claimed. Such statement shall be verified as true and correct by the lien claimant and shall be filed in the office of the Register of Deeds of the county in which the owner resides, and if he be not a resident of this state, then in the county where such property was stored.

§ 4. The lien created by this chapter may be foreclosed in the manner now provided for the foreclosure of liens on personal property under the provisions of Section 6878 of the Compiled Laws of 1913, and upon such notice as is provided in Section 6877 of the 1925 Supplement, relating to liens for repairs to personal property.

§ 5. It shall be the duty of the Register of Deeds to file the lien created by this chapter as provided under the provisions of Section 6879 of the Compiled Laws of North Dakota for the year 1913.

§ 6. The word "person" as used in this act shall be construed as including all natural persons, associations, partnerships and private corporations.

Approved March 10, 1931.

## CHAPTER 176

(H. B. No. 109—Aljets and Northridge, by Request.)

### LIEN FOR REPAIRS OF PERSONAL PROPERTY

An Act to amend and re-enact Section 6877 of the 1925 Supplement to the Compiled Laws of 1913. An Act providing for a lien for repairs of personalty.

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

§ 1. AMENDMENT.] That Section 6877 of the 1925 Supplement to the Compiled Laws of 1913, be and the same is hereby amended and re-enacted to read as follows

§ 6877. LIEN FOR REPAIRS OF PERSONALTY.] Any blacksmith, machinist, or garage keeper, having an established place of business within the State, who makes, alters or repairs any automobile, engine, threshing machine, or well machine at the request of the owner, or legal possessor of the property, shall have a lien upon the same for

his reasonable charges for work done and material furnished, including accessories and parts placed upon the same, until the charges are paid, and said lien shall have priority over all other liens, chattel mortgages or encumbrances against said personal property, provided, however, that any person entitled to a lien under this section, shall, within sixty days after materials are furnished or labor performed in altering or repairing such personal property, file in the office of the Register of Deeds of the county a statement in writing, verified by oath, showing the labor performed, materials furnished, the price agreed on for the same, or if no price is agreed on then state the reasonable value thereof, the name of the person for whom the work or labor was performed, or to whom materials were furnished, or both, and descriptions of the property upon which the lien was claimed; provided, that when the person retains possession of this property so altered or repaired no statement is required to be filed as above provided; provided, that if any person makes, alters or repairs more than one article of personal property for the same owner or legal possessor thereof, he may include all such articles or personal property so made, altered or repaired, within sixty days preceding the filing thereof, in the same statement, and the statement so made shall have the same force and effect as to each article enumerated therein as though a separate statement had been filed for each of said articles so made, altered or repaired. Unless the person entitled to said lien shall file such statement within the time aforesaid, he shall be deemed to have waived his right thereto; provided, further, that the person holding such lien on property that has been previously encumbered by mortgage, before the foreclosure of same, shall give to the record holder of such mortgage twenty days' notice in writing of his intention to foreclose said lien before beginning action or proceedings for foreclosure of the same, which notice may be served by sending same in a registered letter addressed to such lien holder at his last known post office address; and provided, further, that the holder of any mortgage against property on which the lien herein provided for, shall have been filed, may at any time previous to sale, pay off the amount due on such lien, the holder thereof shall assign the same to such person and thereafter he shall be entitled to all the rights that the person filing said lien would have been had the same not been paid.

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

Approved March 7, 1931.

## CHAPTER 177

(H. B. No. 215—Steedsman and Aljets.)

## PROCEDURE THRESHERS LIEN

An Act to amend and re-enact Chapter 156, Laws of 1929, relating to lien of threshers of grain.

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

§ 1. AMENDMENT.] That Chapter 156 Laws of 1929 be and the same is hereby amended and re-enacted to read as follows:

§ 6855. PROCEDURE TO OBTAIN LIEN.] Any person entitled to a lien under this chapter shall within thirty days after the threshing or combine threshing and harvesting is completed, file in the office of the Register of Deeds of the county of which the grain was grown a statement in writing, verified by oath, showing the kind and quantity of grain threshed or combine threshed and harvested, the price agreed upon for threshing or combine threshing and harvesting the same, either by threshing machines or by combines, either by the acre, the bushel, the hour, or the day; or if no price has been agreed upon then the reasonable value, the name of the person for whom the threshing was done and a description of the land upon which the grain was grown. Unless the person entitled to the lien shall file such statement within the time aforesaid he shall be deemed to have waived his right thereto.

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

Approved March 11, 1931.

## MACHINE GUNS

## CHAPTER 178

(H. B. No. 194—Fitch and Indergaard.)

## PROHIBITING POSSESSION, SALE AND USE OF MACHINE GUNS, BOMBS, ETC.

An Act to prohibit the possession, sale and use of machine guns, sub-machine guns or automatic rifles and defining the same and prohibiting the possession, sale and use of bombs loaded with explosives or poisonous or dangerous gases and providing exceptions and penalties.

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

§ 1. The term "machine gun, sub-machine gun or automatic rifle" as used in this act shall be construed to mean a weapon, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt or other means of storing



and carrying ammunition which can be loaded into the said weapon, mechanism or instrument and fired therefrom at a rate of five or more shots to the second.

§ 2. Any person who shall sell, give, loan, furnish or deliver any machine gun, sub-machine gun, automatic rifle of a caliber larger than twenty-two, or bomb loaded with explosives or poisonous or dangerous gases to another person, or any person who shall purchase, have or possess any machine gun, sub-machine gun, automatic rifle, of a caliber larger than twenty-two, or bomb loaded with explosives or poisonous or dangerous gases, shall be guilty of a felony and shall be punished by imprisonment in the state penitentiary not to exceed ten years, or by a fine of not more than three thousand dollars, or both. Provided, that the provisions of this act shall not apply to any person who has procured and possesses a license to purchase, sell, have or possess a machine gun, sub-machine gun, automatic rifle, of a caliber larger than twenty-two, or bomb loaded with explosives or poisonous or dangerous gases, as hereinafter provided for, nor to the authorized agents and servants of such licensee or to the officers and members of any duly authorized military organization, nor to the officers and members of the police force of any municipality, nor to any Sheriff, deputy sheriff, nor any other officer having police powers under the laws of the State.

§ 3. Any person who desires to purchase, sell, have or possess a machine gun, sub-machine gun, automatic rifle, of a caliber larger than twenty-two, or bomb loaded with explosives or poisonous or dangerous gases, may apply to a Judge of the District Court of the county in which the applicant is a resident for a license to purchase, sell, have or possess a machine gun, sub-machine gun, automatic rifle, of a caliber larger than twenty-two, or bomb loaded with explosives or poisonous or dangerous gases. Such application shall be in writing and shall state in detail the reasons why such person desires such license. Upon such application being presented to the judge, he shall refer the same to the Sheriff of the county of the applicant's residence or to the chief police officer of the municipality in which said applicant resides for his investigation and approval, and if said application is approved by the Sheriff or by said police officer, said judge may in his discretion issue a license under his hand and the seal of his court to the applicant to purchase, have and possess a machine gun, sub-machine gun, automatic rifle, of a caliber larger than twenty-two, or bomb loaded with explosives or poisonous or dangerous gases for his own protection and for the protection of his servants and employes. Both the application and the license shall contain a description of the gun or rifle licensed which shall include the name of the manufacturer, the number and caliber, or, if the license is for a bomb, an accurate description thereof together with any identifying marks thereon.

§ 4. The license shall be issued in duplicate and the duplicate copy thereof shall be forthwith by the judge sent to the State Superintendent of Criminal Identification at Bismarck, North Dakota, who shall file and preserve the same as a permanent record in his office.

Approved March 9, 1931.

## MARRIAGE

### CHAPTER 179

(H. B. No. 204—Morgan.)

#### MARRIAGE AND MARRIAGE LICENSE

An Act to amend and re-enact Section 4361, Compiled Laws of North Dakota for 1913, as amended by Chapter 160, Session Laws of 1929, relating to marriages and marriage licenses.

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

§ 1. AMENDMENT.] That Section 4361 of the Compiled Laws of North Dakota for 1913, as amended by Chapter 160 of the Session Laws of 1929, be and the same is, hereby amended and re-enacted to read as follows:

§ 4361. WHO MAY SOLEMNIZE MARRIAGES. LICENSES.] Marriages may be solemnized by all judges of courts of record within their respective jurisdictions; by justices of the peace, within their respective jurisdictions; by ordained ministers of the gospel and priests of every church; by ministers of the gospel licensed by regular church bodies or denominations serving as pastors of churches; but marriages solemnized by the Society of Friends or Quakers, according to the form used in their meetings shall be valid. No person shall solemnize any marriage until the parties thereto shall produce a license, issued, except as hereinafter provided, by the County Judge of the county in which either of the contracting parties resides, or if such county is unorganized, of the county to which it is attached for judicial purposes. When a person authorized by law shall solemnize a marriage, he shall fill out and sign a certificate following the marriage license on the blank form prescribed by law giving his official title, or if a minister of the gospel or priest, the ecclesiastical body with which he is connected and return such license and certificate to the County Judge of the county where the license originally was issued, within thirty days thereafter. Such certificate shall be signed by two witnesses to the marriage ceremony in addition to the signature of the person who solemnized the marriage. Provided, that when a County Judge shall desire to have a license for his own marriage issued in the county of his residence he may request the County Judge of another county to act in his stead upon the application therefor, and thereupon such other County Judge shall have power

and authority so to act and to issue the license in the county of the residence of the judge seeking the same upon the compliance with the other provisions of law relating thereto; such request shall be in writing and shall be filed with the application and other papers relating to it and shall be recorded upon the margin or elsewhere in the marriage record. Provided, further, that upon the return of such license the County Judge of the county in which it was issued shall have power and authority to record it and note the record thereon notwithstanding said judge is one of the contracting parties named therein.

Approved March 11, 1931.

CHAPTER 180  
(S. B. No. 149—Watt.)

**RECORDING MARRIAGE LICENSES AND CERTIFICATES**

**An Act to amend and re-enact Section 4378a3, Supplement to the Compiled Laws of 1913, relating to records of licenses and certificates and fees received.**

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

§ 1. AMENDMENT.] That Section 4378a3 of the Supplement to the Compiled Laws of the year 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 4378a3. RECORDING LICENSES AND CERTIFICATES; INDEX; ACCOUNT OF FEES RECEIVED.] As soon as received by him the State Registrar shall record all marriage licenses together with the certificate of the person performing the marriage ceremony thereunder in a book of records in his office kept for that purpose, and as soon as the same has been recorded he shall return said license and certificate to the County Judge. He shall index all records by him kept and when applied to shall issue a certified copy of the same which shall be prima facie evidence in all courts and places of the facts stated therein, and for which he shall receive a fee of \$1.00. He shall keep an accurate account of all fees received and turn the same over to the State Treasurer not later than the 15th of each month. The fees thus collected and turned over to the State Treasurer shall be credited to the general fund.

Approved March 6, 1931.

## CHAPTER 181

(H. B. No. 233—Wigen.)

## REPEAL INDIAN MARRIAGE CONTRACTS

An Act to repeal Section 4365, of the Revised Code of North Dakota for the year 1913, relating to Indian marriage contracts.

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

That Section 4365 of the Revised Codes of North Dakota for the year 1913 be and the same is hereby repealed.

Approved March 2, 1931.

## MOTOR VEHICLES

## CHAPTER 182

(H. B. No. 177—Mau and Scholl.)

## COLORING OF GASOLINE

An Act to amend and re-enact Section 2 of Chapter 177, Laws of North Dakota for 1927, relating to the coloring of gasoline by the use of a harmless dye.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 177, Laws of North Dakota for 1927, is hereby amended and re-enacted to read as follows:

§ 2. Any gasoline that shows anti-knock characteristics equal to Octane Number 60 of the knock rating system adopted by the United States Bureau of Standards, may be colored by the use of any harmless dye. Any gasoline not showing the anti-knock standard specified above must be sold without the addition of any foreign coloring matter.

Approved March 9, 1931.

## CHAPTER 183

(H. B. No. 290—Holte of Cass.)

HORNS AND WARNING DEVICES MOTOR VEHICLES ON  
PUBLIC HIGHWAYS

An Act amending and re-enacting Section 45 of Chapter 162 of the Session Laws of the State of North Dakota for the year 1927, relating to horns and warning devices upon motor vehicles when operated upon a highway.

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

§ 1. AMENDMENT.] That Section 45 of Chapter 162 of the Session Laws of North Dakota for the year 1927 is hereby amended and re-enacted to read as follows:

§ 45. HORNS AND WARNING DEVICES.] (a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, and it shall be unlawful, except as otherwise provided in this section, for any vehicle to be equipped with or for any person to use upon a vehicle any siren, exhaust, compression or spark plug whistle or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

(b) Every police or fire department and fire patrol vehicle and every ambulance used for emergency calls shall be equipped with a bell, siren or exhaust whistle of a type approved by the registrar. Every vehicle operated by a Sheriff or his deputies shall be equipped with a bell, siren or exhaust whistle of a type approved by the registrar, said bell, siren or exhaust whistle to be paid for by the county.

Approved March 11, 1931.

## CHAPTER 184

(H. B. No. 85—Peters.)

## LIABILITY FOR ACCIDENTAL DEATH OF GUEST

An Act to relieve the owner, driver or person responsible for the operation of a motor vehicle upon the public highways from civil liability for the accidental death of or injury to a guest riding in such vehicle, except in case of intoxication, wilful misconduct or gross negligence.

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

§ 1. LIABILITY FOR INJURY TO GUESTS.] Any person who as a guest accepts a ride in any vehicle, moving upon any of the public highways of the State of North Dakota, and while so riding as such guest receives or sustains an injury, shall have no right of recovery against the owner or driver or person responsible for the operation

of such vehicle. In the event that such person while so riding as such guest is killed, or dies as the result of injury sustained while so riding as such guest, then neither the estate nor the legal representatives or heirs of such guest shall have any right of recovery against the driver or owner of said vehicle by reason of the death of the said guest. If such person so riding as a guest be a minor and sustain an injury or be killed or die as a result of injury sustained while so riding as such guest, then neither the parents nor guardian nor the estate nor legal representatives or heirs of such minor shall have any right of recovery against the driver or owner or person responsible for the operation of said vehicle, for injury sustained or as a result of the death of such minor.

§ 2. EXCEPTIONS IN CASES OF INTOXICATION, WILFUL MISCONDUCT AND GROSS NEGLIGENCE.] Nothing in this Act contained shall be construed as relieving the owner or driver or person responsible for the operation of a vehicle from liability for injury to or death of such guest proximately resulting from the intoxication, wilful misconduct, or gross negligence of such owner, driver or person responsible for the operation of such vehicle; provided, that in any action for death or for injury or damage to person or property by or on behalf of a guest or the estate, heirs or legal representatives of such guest, the burden shall be upon the plaintiff to establish that such intoxication, wilful misconduct or gross negligence was the proximate cause of such death or injury or damage.

§ 3. "GUEST" DEFINED.] For the purpose of this Act the term "guest" is hereby defined as being a person who accepts a ride in any vehicle without giving compensation therefor.

§ 4. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 2, 1931.

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## CHAPTER 185

(S. B. No. 100—Lynch.)

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### MOTOR VEHICLE FUEL TAX

An Act to amend and re-enact Sections 2, 3 and 5 of Chapter 166, Session Laws of North Dakota for the year 1929, and providing for a tax of four cents per gallon upon motor vehicle fuels, and further providing for the distribution of the revenues derived from said tax.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 166, Session Laws of North Dakota for the year 1929, is hereby amended and re-enacted to read as follows:

§ 2. That each and every dealer in motor vehicle fuel, as defined in this Act, who is now engaged or who may hereafter engage in his own name, or in the name of others, or in the name of his representative or agents, in this State, in the sale or use of motor vehicle fuel as herein defined, shall, not later than the 15th day of each calendar month render to the State Auditor, on forms prescribed, prepared, and furnished by the State Auditor, a sworn statement of the number of gallons of motor vehicle fuel sold or used by him or them during the preceding calendar month, which statement shall be sworn to by one of the principal officers, in case of domestic corporation; or by the resident general agent, or agents, or attorney-in-fact, or by a chief accountant or officer in case of a foreign corporation; by the managing agent or owner in case of a firm, association or individual; and shall contain a statement of the quantities of motor vehicle fuel sold or used within the State of North Dakota from his or their respective places of business, and if any of such motor vehicle fuel has been sold and delivered by said dealer to customers in the original package, whether in tank cars, barrels or other packages and in the same form and condition in which the same was imported, said statement shall show the amount of motor vehicle fuel so sold and the names and addresses of the persons, firm or corporations to whom the same was sold.

Said dealer shall pay a license tax of four cents per gallon on all motor vehicle fuel used and sold by him, other than such fuel sold by him or them, in the original packages as above specified, and shall have the option of paying said tax of four cents per gallon on all motor vehicle fuel sold by him or them, in the State, in the original packages in which the same was imported as above specified.

Whenever any sale is made by a dealer of motor vehicle fuel in the original packages in which the same was imported as above specified, such dealer shall deliver to the purchaser thereof an invoice of such motor vehicle fuel, stating the name and address of the purchaser, the quantity and kind of fuel sold, and whether or not said dealer assumes and agrees to pay the license tax on said fuel above specified, and such dealer shall transmit to the State Auditor at the same time he shall render the statement above specified, duplicate copies of all such invoices issued and delivered by him during the period covered by such statement.

§ 2. AMENDMENT.] That Section 3 of Chapter 166, Session Laws of the State of North Dakota for the year 1929, is hereby amended and re-enacted to read as follows:

§ 3. Every dealer paying such license tax or being liable for the payment thereof, shall be entitled to charge and collect the sum of four cents per gallon, on such motor fuel sold by him, as a part of the selling price thereof.

§ 4. AMENDMENT.] That Section 5 of Chapter 166, Session Laws of the State of North Dakota for the year 1929, is hereby amended and re-enacted to read as follows:

§ 5. That said license tax in respect to motor vehicle fuel sold or used in any calendar month, shall be paid at the same time the statement provided for in Section 2 hereof is rendered, to the State Auditor, who shall receipt to the dealer therefor, and shall forthwith pay over all the money thus received to the State Treasurer, except such money as shall have been expended by said State Auditor for the purpose of making refunds as herein provided. The State Treasurer shall promptly credit to the State Highway Commission five-eighths of said license tax. The money so credited, being five-eighths of said license tax, is hereby appropriated to be used by such Commission for the construction, reconstruction, maintenance or repairs of highways or roads under the jurisdiction of said Commission. Three-eighths of said license tax so received by the State Treasurer, shall be deposited by him to a "County Highway Aid Fund". During the months of January, April, July and October of each year, the State Treasurer, upon the warrant of the State Auditor, shall apportion and disburse all of the moneys of such "County Highway Aid Fund" not previously disbursed, including interest received thereon, to the various counties of the State in the same proportion and ratio as the motor vehicle registration fund collected in each county shall bear to the total motor vehicle registration fund collected in all the counties of the State during the entire preceding calendar year as shown by the certificate of the registrar of motor vehicles. Such moneys so received by the respective counties shall be set aside in a separate fund, under the jurisdiction and control of the Board of County Commissioners and appropriated and employed solely by such counties in the construction, reconstruction, maintenance and repair of county highways, bridges and culverts thereon leading up to and connecting with Federal Aid and State Aid highways; provided however, that the County Commissioners are hereby authorized to and may by proper resolutions set aside not to exceed 33 1-3% of the Counties' share for the construction, reconstruction, maintenance and repairs of highways, bridges, culverts in the Federal Aid and State Aid Highways of said county. On making the payments to the State Auditor as provided in this section, the dealer shall first deduct \*(from) the amount of tax due, one and one-half per centum thereof to cover the cost of collecting said tax and transmitting the same to the State Auditor, provided, that in order to reimburse the State on account of the expenses of carrying the provisions of this Act into effect, the State Auditor is hereby authorized and directed to credit to the general fund of the State, on the first day of July of each



year, the sum of twenty-five thousand dollars out of the moneys collected as a license tax under the provisions of this Act.

Approved March 11, 1931.

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\*The word "(from)" appearing in original bill seems to have been inadvertently omitted from enrolled law. It has been inserted to assist in showing probable intent of legislature.

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CHAPTER 186  
(H. B. No. 268—Jardine.)

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MOTOR VEHICLE REGISTRATION

An Act to amend and re-enact Sections one, four, ten, nineteen, twenty-five, twenty-nine, thirty-one and thirty-seven of Chapter 179, Session Laws of 1927, as amended by Chapters 165 and 167 of the Session Laws of 1929, being an act to provide for the taxing and licensing of motor vehicles and trailers, the creation of a Department of Motor Vehicle Registration, the appointment of a Registrar of Motor Vehicles, his powers and duties, establishing the method of distribution of the fees received therefrom, fixing penalties for violation of this act and providing for an appropriation for administering the same and for the use of the State Highway Commission, and to make uniform the law relating to the subject matter of this act.

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

§ 1. AMENDMENT.] That Section 1, of Chapter 179 of the Session Laws of 1927, be amended and re-enacted to read as follows:

§ 1. DEFINITIONS.] The following words and phrases when used in this Act shall, for the purpose of this Act, have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning.

(a) "Vehicle". Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor Vehicle". Every vehicle, as herein defined, which is self-propelled.

(c) "Motorcycle". Every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined.

(d) "Truck Tractor". Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(e) "Farm Tractor". Every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines and other implements of husbandry.

(f) "Road Tractor". Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon independently or any part of the weight of a vehicle or load so drawn.

(g) "Trailer". Every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(h) "Specially Constructed Vehicle". Any vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles.

(i) "Essential Parts". All integral parts and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

(j) "Reconstructed Vehicle". Any vehicle which shall have been assembled or constructed largely by means of essential parts, new or used, derived from other vehicles or makes of vehicles of various names, models and types, or which, if originally otherwise constructed, shall have been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles; provided that a motor vehicle that has been constructed by the use of an engine, differential or transmission complete, old or new, may be registered by the payment of the fee for the calendar year, on satisfactory proof to the department of such reconstructed vehicle.

(k) "Foreign Vehicles". Every motor vehicle, which shall be brought into this State otherwise than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this State.

(l) "Pneumatic Tires". All tires inflated with compressed air.

(m) "Solid Rubber Tire". Every tire made of rubber other than a pneumatic tire.

(n) "Metal Tires". All tires the surface of which in contact with the highway is wholly or partly of metal or other hard, non-resilient material.

(o) "Person". Every natural person, firm, co-partnership, association or corporation.

(p) "Owner". A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an

immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this Act.

(q) "Non-resident". Every person who is not a resident of this State.

(r) "Manufacturer". Every person engaged in the business of manufacturing motor vehicles or trailers.

(s) "Dealer". Every person engaged in the business of buying, selling or exchanging motor vehicles in this State and having an established place of business in this State.

(t) "Highway". Every way or place of whatever nature open to the use of the public as a matter of right for purposes of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private persons, colleges, universities or other institutions.

(u) "Department". The Department of Motor Vehicle Registration of this State acting directly or through its duly authorized officers and agents.

§ 2. AMENDMENT.] That Section 4 of Chapter 179 of the Session Laws of 1927, be amended and re-enacted to read as follows:

§ 4. RECORDS OF DEPARTMENT.] The Registrar shall maintain an office in the State Capitol, or other suitable quarters provided by the State at Bismarck, which said office shall be open and accessible to all applicants for motor vehicle licenses during all reasonable office hours.

§ 3. AMENDMENT.] That Section 10 of Chapter 179 of the Session Laws of 1927, be amended and re-enacted to read as follows:

§ 10. REGISTER OF APPLICANTS TO BE KEPT BY THE DEPARTMENT.] The Department shall file each application received, and when satisfied as to the genuineness and regularity thereof, and that the applicant is entitled thereto, shall register the vehicle therein described and the owner thereof in suitable books or on index cards as follows:

(1) Under a distinctive registration number assigned to the vehicle and to the owner thereof hereinafter referred to as the registration number;

(2) Alphabetically under the name of the owner;

(3) Numerically and alphabetically under the engine and serial number and name of the vehicle; provided that such applications may be destroyed by the department after they are two years old or more.

§ 4. AMENDMENT.] That Section 19 of Chapter 179 of the Session Laws of 1927 and as amended by Chapter 167 of the Session Laws of 1929, be amended and re-enacted to read as follows:

§ 19. REGISTRATION BY NON-RESIDENTS.]

(a) A non-resident owner, except as otherwise provided in this section, owning any foreign vehicle which has been duly registered for the current calendar year in the state, county or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the number plate or plates issued for such vehicle in the place of residence of such owner, may operate or permit the operation of such vehicle within this State without registering such vehicle or paying any fees to this State.

(b) Except a non-resident owner of a foreign vehicle operated within this State for the transportation of persons or property for compensation or for the transportation of merchandise, shall register such vehicle and pay the same fees therefor as are required with reference to like vehicles owned by residents of this State.

(c) And except further, that every non-resident, including any foreign corporation carrying on business within this State and owning and regularly operating in such business any motor vehicle, within this State, shall be required to register each such vehicle and pay the same fees therefor as are required with reference to like vehicles owned by residents of this State.

(d) And except further that every person as hereinbefore defined, engaged in the hauling or transportation for hire or compensation of property or persons by motor vehicle from any state into the State of North Dakota, or from any state through the State of North Dakota, and using the highways within said State of North Dakota, shall be required to register each such vehicle and pay the same fees therefor as are required with reference to like vehicles owned by residents of this State.

§ 5. AMENDMENT.] That Section 25 of Chapter 179 of the Session Laws of 1927, be amended and re-enacted to read as follows:

§ 25 REGISTRATION FEES.] And there shall be paid to the Department for the registration of motor vehicles, fees upon the basis and according to the schedules hereinafter set forth.

(a) Every motor vehicle shall be registered annually, each registration certificate and set of tags being valid until the 31st day of December next following the date of registration from and after January 1, 1928. The fee to be paid on all passenger motor vehicles, including hearses and ambulances, except motorcycles, for registration, re-registration and operation, shall be based on manufacturer's weights of said passenger motor vehicles as follows:

## PASSENGER CARS

2,000 pounds or less .....	\$ 12.50	4,500 pounds .....	\$ 37.50
Over 2,000 pounds to		Over 4,500 pounds to	
2,500 pounds .....	\$ 14.00	5,000 pounds .....	\$ 50.00
Over 2,500 pounds to		Over 5,000 pounds to	
2,800 pounds .....	\$ 16.50	6,000 pounds .....	\$ 70.00
Over 2,800 pounds to		Over 6,000 pounds to	
3,200 pounds .....	\$ 20.00	7,000 pounds .....	\$ 90.00
Over 3,200 pounds to		Over 7,000 pounds to	
3,600 pounds .....	\$ 25.00	8,000 pounds .....	\$110.00
Over 3,600 pounds to		Over 8,000 pounds to	
4,000 pounds .....	\$ 27.50	9,000 pounds .....	\$130.00
Over 4,000 pounds to		Over 9,000 pounds .....	\$150.00

(a) Provided, that upon the installation of any new motor or the addition or change of type of any body or equipment in or upon any registered motor vehicle, the owner shall file with the Registrar a new application blank, setting forth the weight of the vehicle if a passenger car, and the load capacity, if a truck. All motor vehicles used for the first time during the year after July 1, shall be entitled to a fifty per cent reduction of that year's fee for such vehicle; and all motor vehicles used for the first time during the year after October first shall be entitled to a seventy-five per cent reduction of that year's fee for such vehicle, provided, that the Registrar is satisfied with the proof given of such fact; provided, further, that the fee at no time shall be less than \$5.00. The annual license fee for a motorcycle shall be \$5.00. For the registration of each motorcycle equipped with a side car, a fee of \$8.00 shall be charged.

(b) The registration fee for the years subsequent to the year in which the passenger vehicle or truck was purchased from the dealer shall be the basic fee or major fraction thereof as above determined, and as determined in this paragraph for trucks, less a ten per cent reduction for the second year, a ten per cent reduction from such second year fee for the third year, a ten per cent reduction from such third year fee for the fourth year, and a ten per cent reduction from such fourth year fee for the fifth year, and after the 8th year a fifty per cent reduction from the original basic fee, and thereafter no further reduction in fee. For motor trucks, not used for commercial freighting, the fee shall be based on its manufacturer's advertised load capacity, at the rate of \$13.50 on such vehicles with advertised load capacity of one-half ton; \$16.50 for trucks of three-quarter ton capacity; \$21.00 for trucks of one ton capacity; \$28.50 for trucks one and one-half ton capacity; \$55.00 for trucks of two tons capacity; \$70.00 for trucks of two and one-half tons capacity; \$90.00 for trucks of three to less than four tons capacity; \$200.00 for trucks of four to less than five tons capacity; \$400.00 for trucks of five to less than six tons capacity; \$600.00 for

trucks of six to less than seven tons capacity; \$900.00 for trucks with load capacity of over seven tons.

(c) For motor trucks used for commercial freighting, in addition to the factors mentioned in paragraph (b) of this Act, an additional fee of twenty-five dollars per vehicle shall be charged.

Provided, that any passenger motor vehicle not having an advertised manufacturer's weight shall pay a license fee based upon actual weight as determined by the Registrar from satisfactory proof submitted to him. Provided, that any truck not having a manufacturer's advertised load capacity, shall pay a license fee in accordance with the schedules herein provided and applicable thereto upon its load capacity as determined by the Registrar upon satisfactory proof submitted to him. Provided, further, that any truck however constructed, having a manufacturer's advertised load capacity of ten tons or over if permitted to operate on the highways of the State of North Dakota shall pay a license fee of Fifteen Hundred Dollars (\$1500.00).

Trailers used for commercial freighting shall pay a license fee based on its load capacity of \$5.00 for one ton or less and \$5.00 per ton for each additional ton; provided, that trailers used with pleasure vehicles for private purposes need not be licensed.

(d) **COMMERCIAL PASSENGER TRANSPORTATION.** In addition to the factors mentioned in paragraph (a) of this Act an additional fee shall be charged on all passenger carrying motor vehicles engaged in Commercial Passenger Transportation, at the rate of \$7.00 per passenger carrying capacity of vehicle, seating capacity to be calculated on the seating room of 16 inches per passenger.

(e) "Commercial Freighting" defined: Commercial freighting shall mean the carriage of things other than passengers, for hire, except within the limits of the same city, village or town; providing that local dray lines carrying baggage or goods to or from a railway station from or to places in said city, village or town, or in the immediate vicinity thereof, in this state and not to exceed two miles from the corporate or recognized limits of said city, village or town, shall not be construed to be engaged in commercial freighting hereunder.

(f) "Commercial Passenger Transportation" defined. Commercial Passenger Transportation shall mean the carriage of passengers for hire, not within the limits of a city, village or town; provided, that local bus lines carrying passengers from a railroad station from or to places in any *city, village or town or within two miles* of the limits thereof, shall not be construed to be engaged in commercial passenger transportation.

(g) Dealers in passenger automobiles and automobile trucks shall pay a license fee of \$25.00 per year, and which said license shall allow the dealer to deal in new and used cars. Additional

dealer's license plates shall be issued to the dealer upon payment of a fee of \$5.00 per set. Said dealer's license plates may be used on any car owned by the dealer and being used by the dealer in the ordinary course of his business, but such dealer's license plates shall not be used on used cars except for demonstration purposes only. Motorcycle dealers shall pay a license fee of five (\$5.00) dollars for each set of motorcycle tags issued to them.

(h) The taxes provided for in this Act shall be in lieu of all other taxes upon such vehicles, either state or local.

§ 6. AMENDMENT.] That Section 29 of Chapter 179 of the Session Laws of 1927 and as amended by Chapter 165 of the Session Laws of 1929, be amended and re-enacted to read as follows:

§ 29. WHEN FEES DELINQUENT; PENALTIES.] The license fee under this Act to be paid upon a motor vehicle shall become due as soon as such vehicle shall first be used upon the public streets or highways in this State, and upon January 1st in each year thereafter. License fees due upon January 1st shall be paid upon transfer of ownership in the vehicle, and in any event on or before May 15th, and shall be delinquent after May 15th unless paid. License fees falling due between May 15th, except as hereinafter provided, and December 31st, shall become delinquent upon the expiration of five days after the same become due. Provided, that a licensed dealer shall on or before May 15th of each year, file with the Motor Vehicle Department, a list and description of all used cars on hand May 15th. Said used cars need not be licensed, unless sold, until October 1st, at which time said dealer must license all used cars on hand, paying the full annual license fee, but without penalty; provided, further, that on any car licensed in another state, which carries the current year's license issued by the state from which said car comes, taken in after July 1st of any year, one-half of the regular fee shall be paid and if any such car be taken in after October 1st of any year, said car shall be entitled to a license from the State of North Dakota, by paying one-fourth of the regular fee, and if said car is not sold by the dealer until after December 31st of said year, in which it was taken in, no license shall be required by the State of North Dakota for that year.

A penalty of 10 cents a day shall be added to the license fee required under this Act for each and every day such license fee shall be delinquent for not to exceed fifteen days and \$2.00 for every thirty days or fraction thereof, but not to exceed one hundred and fifty days; provided, however, that there shall be no penalty charged on vehicles not owned by dealers that have not been operated on the highways during one or more years previous to application for re-registration, if the Registrar is satisfied of such proof.

§ 7. AMENDMENT.] That Section 31 of Chapter 179 of the Session Laws for 1927, be amended and re-enacted to read as follows:

§ 31. Within ten days after this Act goes into effect the Commission shall appoint a suitable person to act as Registrar of the Motor Vehicle Registration Department. Such appointment shall be for a term of two years, but such Registrar shall be removed for cause. Said Registrar shall qualify by taking and subscribing to the oath of office prescribed by law for state officers, and shall file a bond with sufficient security to be approved by the Commission, in the sum of Twenty Thousand Dollars (\$20,000.00), conditioned upon the faithful performance of the duties of the office and the full accounting for all moneys received as taxes or fees under the provisions of this Act, the cost of such bond to be paid by the Motor Vehicle Registration Department. The salary of such Registrar shall be fixed by the Commission, but such salary shall not exceed \$3,000.00 per annum, and same shall be paid out of the fund set apart for the operation of the Motor Vehicle Registration Department.

§ 8. AMENDMENT.] That Section 37 of Chapter 179 of the Session Laws of 1927, be amended and re-enacted to read as follows:

§ 37. PENALTY FOR MISDEMEANOR.]

(a) It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this Act unless such violation is by this Act or other law of this State declared to be a felony.

(b) Unless another penalty is in this Act or by the laws of this State provided, every person convicted of a violation of any provision of this Act shall, for the first offense, be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days, or both such fine and imprisonment, and for the second offense by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

§ 9. TIME OF TAKING EFFECT.] The provisions of this Act other than those relating to the penalty for failure to procure a license as specified in Section 29 hereof; and relative to reconstructed motor vehicles as specified in sub-division "J" of Section 1 hereof; and the provision 7 increasing the salary of the Motor Vehicle Registrar; shall not be operative until January 1st, A. D. 1932.

Approved March 12, 1931.



CHAPTER 187  
(H. B. No. 281—Lynch.)

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**MOTOR VEHICLE TITLE REGISTRATION**

An Act to amend and re-enact Sections 1, 3, 4, 5, 5½, 6, 7 and 13 of Chapter 180 of the Session Laws of 1927, amended by Chapter 164 of the Session Laws of 1929, being an act to require certificates of title for registered motor vehicles; to facilitate the recovery of stolen or unlawfully taken motor vehicles; to provide for the licensing of dealers in used motor vehicles, trailers, or semi-trailers; to prescribe the powers and duties of the Motor Vehicle Registration Department; to impose penalties for violation of this act and to make uniform the law relating to the subject matter of this act.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 180, Session Laws of 1927 is amended and re-enacted to read as follows:

§ 1. DEFINITIONS.] The following words and phrases when used in this act shall, for the purpose of this Act, have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning:

(a) "Vehicles." Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor Vehicle." Every vehicle, as herein defined, which is self-propelled.

(c) "Used Vehicles." Every motor vehicle, which has been sold, bargained, exchanged, given away or title transferred from the person who first acquired it from the manufacturer or importer, dealer or agent of the agent of the manufacturer or importer, and so used as to have become what is commonly known as "second hand" within the ordinary meaning thereof.

(d) "Person." Every natural person, firm, co-partnership, association or corporation.

(e) "Legal Owner." A person who holds the legal title to a vehicle.

(f) "Registered Owner." A person who holds legal possession of a vehicle but does not hold legal title.

(g) "Manufacturer." Every person engaged in the business of manufacturing motor vehicles.

(h) "Dealer." Every person engaged in the business of buying, selling or exchanging motor vehicles.

(i) "State." A State, territory, organized or unorganized, or district of the United States of America.

(j) "Department." The Department or branch of the Government of this State charged by law with the duty of registering motor vehicles.

(k) "Registrar." The officer of this State in charge of the Department.

§ 2. AMENDMENT.] That Section 3 of Chapter 180 Session Laws of 1927 is amended and re-enacted to read as follows:

3½ § 3. CERTIFICATES OF TITLE MUST BE OBTAINED BEFORE REGISTERED VEHICLE.]

(a) The Department shall not, after July 1, 1927, register or renew the registration of any motor vehicle unless and until application is made for an official certificate of title for such vehicle, or unless satisfactory evidence is presented that a certificate of title for such vehicle has been previously issued to the legal owner by the Department.

(b) No motor vehicle registered in this state shall, after July 1, 1927, operate upon any highway, unless an official certificate of title therefor shall have been issued by the Department, nor shall any person operate such vehicle upon the highways knowing or having reason to believe that the legal owner has failed to obtain a certificate of title therefor, and any person violating this subsection shall be punished as provided in Section 19 of this Act.

§ 3. AMENDMENT.] That Section 4 of Chapter 180 Session Laws of 1927 is amended and re-enacted to read as follows:

§ 4. APPLICATION FOR A CERTIFICATE OF TITLE.]

(a) The application for a Certificate of Title shall be made upon the appropriate form furnished or approved by the Department and shall contain a full description of the motor vehicle including the name of the maker, the engine and serial number and any distinguishing marks thereon, and whether the vehicle is new or used, together with a statement of the applicant's title and of any liens or incumbrances upon said vehicle, and the name and address of the person to whom the Certificate of Title shall be delivered, and such other information as the Department may require; and every application shall be accompanied by a fee of one dollar, which shall be in addition to any fee charged for the registration of such vehicle.

Whenever a new motor vehicle is purchased from a dealer, the application for a Certificate of Title shall include a statement of the transfer by the dealer and of any lien retained by such dealer, and if title to the vehicle is reserved by the dealer, the certificate shall be made out to such dealer and delivered to him as the legal owner of the vehicle.

(b) The applicant shall verify every application for a Certificate of Title before a person authorized to administer oaths, and officers and employees of the Department designated by the Registrar

are hereby authorized to administer oaths and it is their duty to do so without fee for the purpose of this Act.

§ 4. AMENDMENT.] That Section 5 of Chapter 180, Session Laws of 1927 is amended and re-enacted to read as follows:

§ 5. DEPARTMENT TO ISSUE CERTIFICATES OF TITLE.]

(a) The Department shall maintain an engine and serial number index of registered motor vehicles and upon receiving an application for a Certificate of Title shall first check the engine and serial number shown in the application against said index and against the Stolen and Recovered Motor Vehicle Index, required to be maintained by Section 12 of this Act. The Department when satisfied that the applicant is the legal owner of the vehicle, shall thereupon issue in the name of the legal owner a Certificate of Title bearing a serial number and the signature of the Registrar, and the seal of his office, and setting forth the date issued, and a description of the vehicle as determined by the Department, together with a statement of the legal owner's title and of all liens or incumbrances upon the vehicle therein described, and whether possession is held by the legal owner. The Certificate of Title shall also contain, upon the reverse side, forms for assignment of title or interest and warranty thereof by the legal owner with space for notation of liens and incumbrances upon such vehicle at the time of a transfer. The Department shall deliver the Certificate of Title to the legal owner.

(b) Said Certificate shall be good for the life of the vehicle so long as the same is owned or held by the original holder of such Certificate.

§ 5½. AMENDMENT.] That Section 5½ of Chapter 180, Session Laws of 1927, is amended and re-enacted to read as follows:

§ 5½. REGISTRATION CARD.]

(a) The Department upon registering a motor vehicle shall issue to the applicant, who must be the person entitled to possession of the vehicle, a registration card which shall set forth on the face thereof the date issued, the registration number assigned to the applicant and to the vehicle, also a description of the registered vehicle, including the engine and serial numbers, and with reference to every new vehicle hereafter sold in this state, the date of the sale by the manufacturer or dealer to the person first operating such vehicle and such other statements of facts as may be determined by the Department, and shall provide a space for the signature of the applicant, and upon the reverse side a form for endorsement of notice to the Department upon the transfer of the vehicle, if endorsed registration card is not mailed to the Motor Vehicle Department within 5 days after said endorsement is made thereon, there shall be a penalty imposed of ten cents (\$.10) per day, not to exceed 50 days.

(b) An applicant upon receiving a registration card shall sign the usual signature or name of such applicant with pen and ink in the space provided upon such card.

(c) The registration card issued for a vehicle, shall at all times while the vehicle is being operated upon a highway within this state, be carried in a container costing with the registration card, not to exceed ten cents, furnished by the State in the driver's compartment of the vehicle, and subject to inspection by any peace officer.

§ 6. AMENDMENT.] That Section 6 of Chapter 180, Session Laws of 1927 is amended and re-enacted to read as follows:

§ 6. ENDORSEMENT AND DELIVERY OF THE CERTIFICATE OF TITLE UPON A TRANSFER OF TITLE OR INTEREST.]

(a) The legal owner of a motor vehicle for which a Certificate of Title is required hereunder, shall not, after July 1, 1927, sell or transfer his title to such vehicle unless he shall have obtained a Certificate of Title thereto, nor unless having procured a Certificate of Title, he shall in every respect comply with the requirements of this section; and any person who violates the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 19 of this Act.

(b) The legal owner who sells or transfers his title to such motor vehicle after July 1, 1927, shall endorse an assignment and warranty of title upon the Certificate of Title for such motor vehicle with a statement of all liens or encumbrances thereon, which statement shall be verified under oath by the legal owner. The legal owner shall deliver the Certificate of Title to the purchaser in the event legal title passes to said purchaser. In the event legal title does not pass to the purchaser, under the terms of the contract for sale of the vehicle, then the legal owner shall retain the Certificate of Title until the terms of the contract are complied with by the purchaser, but shall deliver the Certificate of Title, properly assigned, to the purchaser as soon as the terms of the contract are complied with by said purchaser.

(c) The transferee except as provided in the next succeeding paragraph, shall thereupon present such Certificate, endorsed and assigned as aforesaid to the Department, accompanied by a transfer fee of one dollar, and make application for and obtain a new Certificate of Title for such vehicle.

(d) When the transferee of a vehicle is a dealer, who holds the same for resale and operates the same only for purposes of demonstration, such transferee shall not be required to forward the Certificate of Title to the Department, as provided in the preceding paragraph, but such transferee, upon transferring his title to another person, shall execute and acknowledge an assignment and warranty of title upon the Certificate of Title and deliver the same to the person to whom such transfer is made.

(e) Whenever the ownership of any motor vehicle shall pass otherwise than by voluntary transfer, the new legal owner may obtain

a Certificate of Title therefor from the Department upon application therefor and payment of a fee of one dollar, accompanied with such instruments or documents of authority, or certified copies thereof, as may be required by law to evidence or effect a transfer of title in or to chattels in such case. The Department, when satisfied of the genuineness and regularity of such transfer shall issue a new Certificate of Title to the person entitled thereto.

(f) When the transferee of a motor vehicle is unable to obtain a properly assigned Certificate of Title for such vehicle, and makes application for a new Certificate of Title and presents satisfactory proof of ownership, the Department may cancel the old Certificate of Title and issue a new Certificate of Title to such transferee.

§ 7. AMENDMENT.] That Section 7 of Chapter 180, Session Laws of 1927 is amended and re-enacted to read as follows :

§ 7. DEPARTMENT TO MAINTAIN TRANSFER FILE.]

(a) The Department shall retain and appropriately file every surrendered Certificate of Title, such file to be maintained as to permit the tracing of title of the vehicle designated therein.

(b) The Department within thirty days after the taking effect of this Act, shall have printed copies of this Act and shall mail a copy thereof, with a blank form of application for a Certificate of Title, to every legal owner of a registered motor vehicle in this State.

§ 8. AMENDMENT.] That Section 13 of Chapter 180, Session Laws of 1927 is hereby amended and re-enacted to read as follows :

§ 13. ALTERED OR CHANGED ENGINE OR SERIAL NUMBERS.]

(a) The legal owner of a motor vehicle, the engine or serial number of which has been altered, removed or defaced, may, within thirty days from the date this Act takes effect, make application in form prescribed by the Department, accompanied by a fee of one dollar, for a special number. He shall furnish such information as will satisfy the Department that he is the legal owner, whereupon the Department shall assign a special number for the motor vehicle, preceded by a symbol indicating this State. A record of special numbers so assigned shall be maintained by the Department.

The legal owner shall stamp said number upon the engine, or otherwise as directed by the Department ; and upon receipt by the Department of a certificate by a peace officer that he has inspected and found said number stamped upon the motor vehicle, as directed, in a workmanlike manner, together with application for a Certificate of Title, such special number shall be regarded as the engine or serial number of said motor vehicle.

(b) Any person who with fraudulent intent shall deface, destroy or alter the engine or serial number of a motor vehicle, or shall place a stamp other than the original engine or serial number upon a motor vehicle, or shall sell or offer for sale any motor vehicle bearing an altered or defaced engine or serial number, other than the orig-

inal or a number assigned as above provided, shall be guilty of a felony, and upon conviction shall be punished as provided in Section 20 of this Act.

This Section is not intended to prohibit the restoration by the legal owner of an engine or serial number of a motor vehicle for which a Certificate of Title has been issued by this State, nor to prevent any manufacturer or importer, or agents, thereof, other than a dealer, from placing or stamping in the ordinary course of business, numbers on motor vehicles, or parts thereof removed or changed and replacing the numbered parts.

§ 9. TIME OF TAKING EFFECT.] This Act shall take effect from and after the 1st day of January, 1932.

Approved March 12, 1931.

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## CHAPTER 188

(S. B. No. 59—Bonzer.)

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### MOTOR VEHICLE TRANSPORTATION

An Act to amend and re-enact Section one, Chapter 90, of the Session Laws of 1927; providing for the supervision and regulation of the transportation of persons and property for compensation over any public highway by motor propelled vehicles; defining auto transportation companies; providing for supervision and regulation thereof by the Board of Railroad Commissioners of the State of North Dakota; providing for the enforcement of the provisions of this act and for punishment for violation thereof.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 90 of the Laws of 1927 of the State of North Dakota be and the same hereby is amended and re-enacted as follows:

§ 1 DEFINITION OF TERMS.]

(a) The term "Corporation" when used in this Act means a corporation, company or association, or joint stock association.

(b) The term "Person" when used in this Act means an individual, a firm or a copartnership.

(c) The term "Commission" when used in this Act means the Board of Railroad Commissioners of the State of North Dakota, or the Director of Public Works or such other board or body as may succeed to the powers and duties now held by the Board of Railroad Commissioners.

"(d) The term "Auto Transportation Company" when used in this Act means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any motor propelled vehicle not usually operated on or over rails, used in the business of transporting

persons and/or property for compensation over any public highway in this state as a common carrier; provided that the term "Auto Transportation Company" as used in this Act shall not include corporations or persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever insofar as they own, control, operate or manage busses, taxi cabs, or transfer trucks operated exclusively within two miles of the incorporated limits of any city, town or village, school busses wherever operated, motor propelled vehicles operated exclusively in transporting agricultural, horticultural, livestock or dairy or other farm products from the point of production to the market by the producer or in the exchange of labor, or rural mail carriers employed by the United States Government.

(d-1) The term "Common Carriers" when used in this Act means every auto transportation company which offers to the public to carry persons and/or property for compensation.

(e) The term "Public Highway", when used in this Act, means every street, road, or highway in this State, and shall include any highway, state road, county road, public street, avenue, alley, driveway, boulevard, or other place built, supported, maintained, controlled or used by the public or by the state, county, district or municipal officers for the use of the public as a highway or for the transportation of persons, and/or property, or as a place of travel or communication between different localities or communities.

(f) The word "Certificate" means the certificate of public convenience and necessity authorized to be issued by the Commission after notice and hearing under the provisions of this Act.

(g-1) The words "For Compensation" means for remuneration of any kind, paid or promised, either directly or indirectly.

(g-2) The word "Loss" means the excess of operating costs of the business, interest, taxes and a reasonable and proper charge for depreciation over the earnings.

(h) There shall be two classes of auto transportation companies authorized to operate under this Act which shall embrace all auto transportation companies operating as common carriers.

(i) Class A auto transportation companies shall embrace all auto transportation companies operating between fixed termini or over a regular route upon a regular time schedule at regular rates or charges based upon station to station rates, or upon a mileage rate or scale or a combination of both, provided that nothing herein shall be construed as prohibiting a Class A carrier from publishing, maintaining, charging and collecting rates at competitive points the same as published, maintained, charged and collected by other carriers.

Special auto transportation companies shall embrace all auto transportation companies transporting persons and/or property of the class or classes usually and ordinarily transported by Class A companies under regular rates and charges made for each vehicle accord-

ing to size or capacity on a mileage or hourly basis or both, but not operating between fixed termini or over a regular route.

Class B auto transportation companies, as defined by Chapter 90 of the Session Laws of 1927, is abolished.

(j) OPERATION OF VEHICLES—No auto transportation company, nor corporation, nor person or its or their legal representatives, shall operate on any public highway in this State any motor propelled vehicle for the transportation of persons, and/or property for compensation, except in accordance with the provisions of this Act.

(k) POWER OF COMMISSION, RATES.] The "Commission" of the State of North Dakota is hereby vested with power and authority and it is hereby made its duty to supervise and regulate every auto transportation company in this state subject to the provisions of this act; to fix just, fair, reasonable, sufficient and non-discriminatory rates, fares, charges, classifications, rules and regulations of each auto transportation company; to alter rates, rules and regulations; to regulate the accounts, service, rates of speed of such auto transportation company and safety of operations of each such auto transportation company; to require the filing of annual and other reports, tariffs, schedules or other data by such auto transportation companies and to supervise and regulate auto transportation companies in all other matter affecting the relationship between such auto transportation companies and the travelling and shipping public. The Commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this Act, applicable to any and all such auto transportation companies; and within such limits shall have power and authority to make orders and to prescribe rules and regulations affecting auto transportation companies.

The Commission may, at any time, by its order duly entered after a hearing had upon notice to the holder of any certificate hereunder, and an opportunity to such holder to be heard, at which it shall be proved that such holder wilfully violates or refuses to observe any of its proper orders, rules or regulations or any provisions of this Act, suspend, revoke, alter or amend any certificate issued under the provisions of this article, but the holder of such certificate shall have all the rights of rehearing, review and appeal as to such order of this Commission as provided for in this Act.

The Commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this Act, applicable to any and all auto transportation companies provided that no rule shall be made restricting common carries of passengers hereunder from transporting the baggage of each passenger; or transporting express packages weighing not to exceed one hundred pounds each. All rules and regulations in relation to schedules, service, tariffs, rates, facilities, accounts and reports shall be just, fair and reasonable as to the public, and to other common carriers.



In fixing the tariffs or rates to be charged for the carrying of persons and/or property, the Commission shall take into consideration, among other things, the kind and character of service to be performed, the public convenience and necessity therefor, and the effect of such tariffs and rates upon other common carriers, if any, and as far as possible avoid detrimental or unreasonable competition with existing transportation service.

No time schedule, tariff or rates shall be put into effect or be changed or altered except upon hearing duly had and an order therefor by the Commission. Notice of such hearing shall be served upon any competing auto transportation company or railroad; provided however that in case of an emergency or where application is made for minor or unimportant alterations of time schedules or tariffs the Commission may, in its discretion, authorize the changing or alteration of its time schedules or tariffs without a hearing, and prior to the service of such notice, but in that event notice shall be served within a reasonable time after such action on the part of the Commission and any competing auto transportation company or railroad affected by such change, may, upon application, be entitled to a hearing upon such alteration or change.

No auto transportation company shall charge or demand or collect or receive a greater or less or different compensation for the transportation of persons and/or property, or for any service in connection therewith, than the rates, fares and charges which have been duly approved therefor by an order of the Commission; nor shall any auto transportation company refund or remit in any manner or by any device, any portion of the rates, fares and charges required to be collected by the Commission's order, nor extend to any shipper or person any privilege or facilities in the transportation of persons, and/or property, except such as have been provided for by an order of the Commission.

(1) CONSENT OF COMMISSION TO OPERATION, CERTIFICATE, TERMS AND CONDITIONS. No auto transportation company, except those properly licensed by the Commission as of April 1st, 1931, shall hereafter operate for the transportation of persons and/or property for compensation as a common carrier without first having obtained from the Commission under the provisions of this act, a certificate declaring that public convenience and necessity require such operation.

Any right, privilege, or certificate held, owned or obtained by an auto transportation company may be sold, assigned, leased, transferred or inherited as other property, only upon the authorization of the Commission.

The Commission shall have power, after hearing, when the applicant requests a certificate to operate in a territory already served by a certificate holder under this act to issue said certificate as prayed for; or for good cause shown, to refuse to issue same or to issue

it for the partial exercise only of said privilege, and may attach to the exercise of the rights granted by said certificate, such terms and conditions, as, in its judgment, the public convenience and necessity may require.

(m) **PETITION ON APPLYING FOR CERTIFICATE.** Any auto transportation company making application for a certificate under this act shall file with the Commission a duly verified petition which shall specify the following matters:

1. The name and address of the applicant and the names and addresses of its officers, if any.
2. The public highway or highways over which, and the fixed termini between which, or the route or routes over which it intends to operate, if the same are fixed.
3. The kind of transportation, whether of persons or property together with a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle to be used for passenger traffic and the tonnage capacity of the vehicle to be used in freight traffic.
4. The proposed time schedule.
5. A schedule of the tariff or rates desired to be charged for the transportation of freight or passengers.
6. A complete and detailed description of the property proposed to be devoted to the public service.
7. A detailed statement showing the assets and liabilities of such applicant.
8. And such other or additional information as the Commission may by order require.

(n) **HEARING, FIXING TIME AND PLACE OF; SERVICE OF NOTICE OF.** Upon the filing of such petition the Commission shall fix a time and place for hearing thereon which shall not be less than twenty (20) days after such filing. The Commission shall cause notice of hearing thereon to be served upon any officer or owner of any auto transportation company that, in the opinion of the Commission, might be affected by the granting of any such certificate, and upon a station agent of any railroad operating into or through any village or city located on the proposed route of the applicant, and on the State Highway Department, at least twenty (20) days before the date of the hearing, and any such railroad, auto transportation company, State Highway Department, or any other interested party may appear and offer testimony for or against the granting of such certificate.

(o) **CONSIDERATION GIVEN ON DETERMINING WHETHER CERTIFICATE SHALL BE ISSUED.** In determining whether or not a certificate should be issued, the Commission shall give reasonable consideration to the transportation service being furnished or that could be furnished by any railroad and the effect which such proposed

transportation service may have upon other forms of transportation service which are essential and indispensable to the communities to be affected by such proposed transportation service or that might be affected thereby, and to the traffic already existing upon the route proposed to be traveled and the effect that such proposed service may have upon the existing travel upon said route and the excess cost of maintaining such highway on account of installation of such additional service, if any. The Commission shall avoid as far as possible, consistent with the public interest, the duplication of transportation services.

(p) **INSURANCE OR BOND REQUIRED. LIABILITY OF INSURER AND SURETY. TRIAL.** The Commission shall in the granting of a certificate to operate any auto transportation company, for the transporting of persons, and/or property, for compensation, require the owner or operator to first procure liability and property damage insurance from a company licensed to make liability insurance in the State of North Dakota, or a surety bond of a company licensed to write surety bonds in the State of North Dakota, in such amounts as the Commission may fix as being adequate for the protection of the interests of the public, with due regard to the hazard and density of traffic, which insurance policy or surety bond shall guarantee the payment of any loss or damage to property, death or injury to persons, not exceeding the amounts determined by the Commission and specified in such policy or bond, resulting from the negligence of such auto transportation company. In any action for damages resulting from negligence of such auto transportation company the insurer or surety shall not be joined as a party defendant with such auto transportation company, nor shall the fact of the ultimate liability of such insurer or surety be disclosed or commented upon to the jury, but upon final judgment the insurer or surety shall become directly liable to the owner of such judgment for the full amount thereof, but not exceeding the amount of the policy of insurance or surety bond applicable to such loss. Each policy of insurance or surety bond required, shall be filed with the Commission and kept in full force and effect and failure so to do shall be cause for revocation of the certificate.

(q) **COMPLAINTS; ORDERS; DECISIONS; APPEALS.** In all respects in which the Commission has power and authority under this act, applications and complaints may be made and filed with it and notices issued thereon, hearing held, opinions and decisions made and filed, petitions for rehearing filed and acted upon, and appeals from such orders and decisions may be taken by any party to the District Court of the County where such hearing was held unless otherwise provided for in this article, in the same manner and under the same terms and upon the same conditions provided for by Sections 4609c1 to 4609c56, inclusive, Supplement to the 1913 Compiled Laws of North Dakota.

(r) **VIOLATION OF PROVISIONS.** Every officer, agent or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any provisions of this act, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement or any part or provision thereof, is guilty of a misdemeanor and punishable as such.

(s) **FEES.** Every auto transportation company now operating or which shall hereafter operate as a common carrier in this State shall at the time of making application for a certificate and annually thereafter on or before April 15th of each calendar year, pay a fee of not less than fifteen (\$15) dollars nor more than seventy-five (\$75) dollars, to be fixed by the Commission in each instance.

Miscellaneous fees shall be as follows:

Application for transfer of a certificate of public convenience and necessity, \$5.00.

Application for the mortgaging of a certificate of public convenience and necessity, \$5.00.

Application for the issuance of a duplicate certificate of public convenience and necessity, \$3.00.

For copies of any records of the Commission pertaining to auto transportation companies, per one hundred words or portion thereof, (15¢) fifteen cents.

For the purpose of carrying out the provisions of this act there is hereby created in the State Treasury a state fund to be known as the "Auto Transportation Fund." All fees collected by the Commission, as herein provided, shall be paid into the State Treasury monthly and shall be credited to the said "Auto Transportation Fund" to the use of the Commission and shall be paid out upon proper voucher and audit by the State Auditing Board, for the expenses of said Commission in administering the provisions of this act.

(t) **FORFEITURE OF RIGHTS.** Any auto transportation company shall forfeit all rights under a certificate issued under the provisions of this act by non-use thereof for a period of sixty days after the granting of such certificate.

(u) **BALANCE OF STATUTE NOT TO BE AFFECTED BY UNCONSTITUTIONALITY OF ACT.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

§ 2. **REPEAL.]** All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 10, 1931.

CHAPTER 189  
(S. B. No. 10—Gronvold.)

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REFUND MOTOR VEHICLE FUEL TAX.

An Act to amend and re-enact Section 6 of Chapter 166, Session Laws of North Dakota for the year 1929, providing for the refunding of license tax paid on motor vehicle fuel used for other purposes than in motor vehicles operated or intended to be operated, in whole or in part, upon any of the public highways in the State of North Dakota.

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

§ 1. AMENDMENT.] That Section 6 of Chapter 166, Session Laws of North Dakota for the year 1929, be amended and re-enacted to read as follows:

§ 6. That any person or persons, firm or corporation who shall buy or use any motor vehicle fuel as defined in this Act, for the purpose of operating and propelling stationary gas engines, tractors used for agricultural purposes, motor boats, airplanes or aircraft, or who shall purchase or use any of such fuel for lighting, heating, cleaning or dyeing or other commercial use of the same, except motor vehicles operated or intended to be operated, in whole or in part upon any of the public highways in the State of North Dakota, on which motor fuel tax imposed by this Act has been paid; shall be reimbursed and repaid the amount of such tax paid by him, on presentation to the State Tax Commissioner, on a form prescribed by the State Tax Commissioner, of a sworn statement setting forth the total amount of such fuel purchased and used by such consumer, other than in motor vehicles operated or intended to be operated upon any of the public highways in the State of North Dakota, and the purpose for which said motor fuel upon which he claims exemption from said tax was used, and such other information as the State Tax Commissioner shall require, and the State Tax Commissioner, upon the presentation of such sworn statement, together with the invoice or ticket hereinbefore provided for and marked paid, shall audit such claims for refunds and prepare, in duplicate, an abstract showing the claim number, the name, address and amount due each claimant, and shall certify to the State Auditor within fifteen days all claims entitled to approval; and the Auditor shall pay the same immediately. Upon such certification the State Auditor shall issue his check, payable to each consumer as shown by such certified abstract, from the taxes collected on motor fuels, the said taxes on fuels purchased or used for other than motor vehicles as aforesaid, and shall deliver, for mailing, said checks to the State Tax Commissioner; provided that no refund or repayment shall be made unless such claimant thereof shall make application therefor within twelve months from and after the

purchase of such motor vehicle fuel. Applications for refunds or repayments shall not be made oftener than at the beginning of the quarter of each calendar year. The State Auditor shall furnish the Tax Commissioner with the information relating to the collection of the motor vehicle fuel tax and the Tax Commissioner shall withhold approval of any refund or repayment until the tax upon such motor vehicle fuel, on which refund or repayment is claimed, shall have been paid.

"The Tax Commissioner shall have the power to formulate rules and regulations for the administration of this provision and shall require the assistance of the tax supervisors in the enforcement thereof."

Approved March 10, 1931.

CHAPTER 190  
(S. B. No. 80—Bonzer.)

**SIZE AND LOAD OF MOTOR VEHICLES ON HIGHWAYS**

An Act to amend and re-enact Section 36 of Chapter 162, of the Session Laws of North Dakota for 1927, being the uniform Motor Vehicle Act regulating the operation of vehicles upon the highways of the State of North Dakota.

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

§ 1. AMENDMENT.] That Section 36 of Chapter 162 of the Session Laws of North Dakota for 1927, be amended and re-enacted to read as follows:

§ 36. SIZE OF VEHICLE AND LOAD.]

(a) No vehicle shall exceed a total outside width, including any load thereon, of eight feet; provided, that the limitations as to size of vehicles stated in this section shall not apply to contractors' equipment or implements of husbandry temporarily propelled or moved upon the public highway.

(b) No vehicle unladen or with load shall exceed a height of fourteen feet and six inches.

(c) No vehicle shall exceed a length of thirty-five feet. The hauling of more than one trailer as hereinbefore defined, behind a motor vehicle, except for the purpose of transporting the property of the owner of such vehicle, is prohibited and made unlawful. No train of more than two motor vehicles shall be operated on the highways of this state, except that one motor vehicle may haul to a convenient place another motor vehicle in the case of an emergency on the road brought about by injury or damage to, or break down of said hauled motor vehicle. Nothing in this act shall prohibit any North Dakota automobile dealer from hauling not to exceed two new cars; hitched in manner approved by the Motor Vehicle Registrar.

(d) No Motor vehicle shall carry any load extending more than three feet beyond the front thereof.

(e) No passenger vehicle shall carry any load extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fender on the right side thereof.

(f) The provisions hereof shall not apply to carriage of structural material which must necessarily be transported on the highway.

§ 2. EMERGENCY.] This Act is hereby declared to be an Emergency measure, and shall be in full force and effect immediately after its passage and approval.

Approved March 13, 1931.

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## MUNICIPAL CORPORATIONS

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### CHAPTER 191

(H. B. No. 236—Pfenning.)

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#### ATTENDANCE FIRES OUTSIDE CORPORATE LIMITS BY MUNICIPAL FIRE DEPARTMENTS

An Act authorizing municipal fire departments to attend fires outside of the corporate limits, and to provide that attending such fires shall be in the performance of a public duty.

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

§ 1. The governing body of any city or village may by resolution provide that the fire chief may, in cases of emergency, order the fire department or any portion thereof to attend and serve at fires outside the limits of the municipality, but within the limits prescribed by such resolution.

§ 2. When so engaged outside the limits of the municipality, the fire department, its members and apparatus shall be deemed and considered to be engaged in the performance of a public duty, as fully as if serving within the limits of the municipality.

§ 3. All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 11, 1931.

## CHAPTER 192

(H. B. No. 196—Olson of Burleigh by Request.)

**CONSTRUCTION AND MAINTENANCE BOULEVARDS, ETC.,  
WITHIN CITY OR PARK DISTRICT**

An Act providing for the construction of boulevards or other public grounds within any city or park district of the state and for the planting, seeding, watering and maintenance thereof, prescribing the procedure for making such improvements or maintaining the same, and providing for the levying of special assessments therefor.

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

§ 1. CONSTRUCTION OF BOULEVARDS AND MAINTENANCE THEREOF.] Subject to the limitations hereinafter provided, the city council or board of city commissioners of any city, whenever it shall deem it necessary to construct boulevards in the city, or to plant trees or sow grass seed thereon, or to trim trees or cut grass or water or otherwise maintain or preserve any such improvements, shall notify each owner and occupant of any lot or parcel of land adjoining the improvement deemed necessary to make the improvement designated at his own expense and subject to the approval of the street commissioner by a notice in writing, which may be general as to the owner of the lot or parcel of land, but which shall specifically describe the same. This notice shall specify the improvement required to be made and the time within which the same shall be done or commenced. The street commissioner shall serve such notice or cause the same to be served by leaving a copy thereof at the dwelling house on such lot or parcel of land with some person over the age of fourteen years residing therein; or if such lot or parcel is not occupied, by posting a copy of the notice in a conspicuous place thereon or immediately in front thereof. Within ten days after the service of such notice any owner may file written objections to making the improvement described therein. At the next meeting after the filing of such objections the city council or board of city commissioners shall consider the validity of such objections and if a majority of such board shall deem the same not well taken such improvements shall be made. If such improvement is not objected to as herein provided, or is not made or commenced within the time prescribed, or in case the improvement specified consists of the maintenance of a boulevard or some improvement thereof, if the owner does not within ten days after service of the notice inform the city auditor in writing that the improvement will be made, the improvement shall be made by the city, or by such person as the city may have contracted with therefor, under the direction of the street commissioner, at the expense of the lot or parcel of land adjoining the improvement, and such expense, including the expense of all notices in connection with such work, and the assessment therefor, and any other expense incurred for such work, shall be assessed



against the lot or parcel of land properly chargeable therewith, by the street commissioner, and such assessment shall be returned by him and filed in the office of the city auditor, who shall cause the same to be published, together with a notice of the time and place where the city council will meet to approve the same, and such notice shall be published once in the official newspaper of the city at least ten days prior to the meeting of the city council or board of city commissioners to approve such assessment. Provided, that any such improvement may be made or maintained only in any block of the city in which the same improvement has been or is being made or maintained by the owners of two-thirds of the entire frontage in the block on the boulevard affected.

§ 2. PERFORMANCE BY CITY.] The city council or board of city commissioners may let a contract for the making of any or all such improvements to be made within the city in each year, or if it is deemed advisable may let a contract for the making of each specific improvement as the same may be determined upon. Whether the contract to be let is general or special the same shall be let in the manner prescribed by law for the letting of contracts for sidewalks in cities so far as the provisions of law relating thereto may be properly applicable.

§ 3. DUTY OF AUDITOR.] The city auditor shall keep in his office a book called "Boulevard Assessment Book," and shall enter any assessment certified by the street commissioner therein as a special assessment against the lot or parcel of land adjoining the improvement made, with the name of the owner, if known to him, and at a regular meeting in October of each year the city council or the board of city commissioners shall review all assessments and hear all complaints against the same and approve the same as finally adjusted.

§ 4. BOULEVARD SPECIAL ASSESSMENT FUND.] All moneys collected from special assessments for making any of the improvements mentioned in Section 1, shall be kept in a fund called "Boulevard Assessment Fund," and warrants shall be drawn on such fund for the payment of the cost of making any such improvement or maintaining the same, and the city shall in no case be liable on said contracts for the making of such improvement in any sum whatsoever to be paid by moneys raised by general taxation. The provisions of the law relating to the form of warrants, the use thereof, the rate of interest thereon, and the payment thereof, prescribed for warrants drawn on the Sidewalk Special Fund, shall be applicable to the warrants authorized hereby.

§ 5. POWERS OF BOARD OF PARK COMMISSIONERS.] The board of park commissioners of any city organized as a park district may exercise the powers herein defined in the making or maintenance of any improvement upon any boulevards coming within their jurisdiction.

§ 6. PROVISIONS NOT EXCLUSIVE.] It is not intended by the provisions of this act to modify or repeal the provisions of law permitting the making of such improvements by the creation of special improvement districts, but the same are enacted to supplement the said provisions and to permit the making of such improvements in cases where the creation of special improvement districts for such purpose is deemed impossible or impractical by the city council or board of city commissioners.

Approved March 11, 1931.

CHAPTER 193  
(H. B. No. 235—Pfenning.)

FIRE FIGHTING APPARATUS CITIES AND VILLAGES

An Act authorizing and empowering cities and villages to contract for the purchase of fire fighting apparatus and equipment upon deferred and installment payments; limiting the amounts of such purchases; and requiring all payments so made therefor to be made from revenue derived from the tax levy of such municipality authorized by law.

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

§ 1. PURCHASE OF PROPERTY ON INSTALLMENT; PAYMENTS MADE FROM AUTHORIZED LEVY ONLY; LIMIT OF OBLIGATIONS TO BE SO INCURRED.] That the City Council or Board of City Commissioners of any city, or the Board of Village Trustees of any village may and is hereby authorized and empowered to, upon declaration by resolution duly passed that an emergency exists and that it is desirable and necessary that fire fighting apparatus and equipment be acquired for municipal purposes, enter into a contract or contracts for the purchase of such property, the purchase price of such property so purchased to be payable in annual installments; provided however that all moneys to be so paid annually under such contract or contracts shall be available and paid from the authorized tax levy of such municipality; provided further that contracts may not be entered into under the provisions hereof, which shall at any time create aggregate future obligations of such municipality, thereunder, in an amount in excess of one (1) per cent of the value of all taxable property within the said municipality and not in excess of ten thousand dollars (\$10,000.00.)

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] This act is hereby declared an emergency measure and shall be in full force and effect from its passage and approval.

Approved March 9, 1931.

CHAPTER 194  
(S. B. No. 34—Fowler.)

FORM AND CONTENTS MUNICIPAL BONDS

An Act to amend and re-enact Paragraph two (2) of Section fifteen (15) of Chapter 196, Session Laws 1927.

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

§ 1. That Paragraph two (2) of Section fifteen (15) of Chapter 196, Session Laws of 1927, be and the same is hereby amended and re-enacted to read as follows:

2. Bonds issued under the authority of this act shall be serial maturities. The first installment of principal shall fall due not more than three years and the last installment not more than twenty years from the date of the bonds. No installment of principal shall be less than one-third of the amount of the largest installment, except that the amount of such installments of principal may be such that the increase thereof from year to year shall approximately equal the decrease from year to year in the interest on the bonds remaining unpaid.

Approved January 31, 1931.

CHAPTER 195  
(S. B. No. 202—Fowler.)

LIMITATION BOND ISSUES CITIES

An Act to amend and re-enact Paragraph (c) of Subsection (2) of Section 4 of Chapter 196, Laws of 1927, as amended by Chapter 169, Laws of 1929; and Subsection (a) being the first paragraph of Section 7 and Section 13 of said Chapter 196, Laws of 1927, relating to bond issues of various municipalities, counties, and Other Taxing Districts.

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

§ 1. AMENDMENT.] That Paragraph (c) of Subsection (2) of Section 4 of Chapter 196, Laws of North Dakota 1927, as amended by Chapter 169, Laws of North Dakota 1929, be and it is hereby amended and re-enacted to read as follows:

(c) For the construction and extension of water works plants or purchase of existing plants, construction and improvements of watermains, sewers and drains; to provide the erection, planning, construction and establishment of a sewage disposal plant or system; or for the erection and construction and enlargement of garbage disposal plants, and to purchase sites and grounds, either within or without the limits of the city for the disposal of sewage, garbage and other refuse; or for the leasing or purchase of lands, either within or without the limits of the city, for the purpose of providing

airports or landing fields or for the construction of buildings thereon or the procuring of equipment therefor, and other like municipal purposes.

§ 2. AMENDMENT.] That Subsection (a) being the first paragraph of Section 7 of Chapter 196, Laws of North Dakota 1927, be and the same is hereby amended and re-enacted to read as follows:

§ 7. INITIAL RESOLUTION. HOW ADOPTED.] (a) Proceedings for the issuance of bonds under the authority of this act shall be instituted by the adoption of an initial resolution therefor by the governing body of the municipality in the manner specified by Paragraph (b) of this section or by the proposing of such resolution by petition of the voters of the municipality in the manner specified by Paragraph (c) of this section. Such initial resolution shall state: (1) the maximum amount of bonds proposed to be issued; (2) the maximum interest rate they shall bear; (3) that they will be of serial maturity; (4) the years of such maturities, but not the amounts for each of such years; (5) the purpose for which they are proposed to be issued; (6) the assessed valuation of all taxable property in the municipality as defined in Section 1 hereof; (7) the total amount of bonded indebtedness of the municipality; (8) the amount of outstanding bonds of the municipality issued for a similar purpose; and (9) any other statement of fact deemed advisable by the governing body or voters proposing the same.

§ 3. That Section 13 of Chapter 196, Laws of North Dakota 1927, be and it is hereby amended and re-enacted to read as follows:

§ 13. AUTHORITY TO BORROW AND ISSUE BONDS. WHEN COMPLETE.] Every municipality that has first complied with all requirements prescribed for and made applicable to it by the preceding sections may, but not otherwise, borrow money and issue and sell its municipal bonds to the amount and for the purpose or purposes specified in the initial resolution.

Approved March 11, 1931.

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CHAPTER 196  
(H. B. No. 173—Wilson.)

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**MUNICIPAL BONDS FUNDING OUTSTANDING INDEBTEDNESS**

An Act authorizing and empowering municipalities as defined in Chapter 196, Laws of 1927, to issue bonds for the purpose of funding outstanding indebtedness thereof incurred prior to January 1st, 1931, in certain cases.

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

§ 1. Any municipality is hereby authorized to issue its bonds in the form and manner and subject to the limitations herein provided for the purpose of funding any outstanding indebtedness

thereof incurred prior to January 1, 1931, represented by certificates of indebtedness, orders, contracts, or other instruments other than bonds. The terms "governing body" and "municipality" as used herein shall be deemed and construed to mean the same as such terms are respectively defined in Chapter 196, Laws of 1927.

§ 2. Such bonds may be issued pursuant to resolution or ordinance of the governing body and without submitting the question to the electors of the municipality. Prior to the determination of the governing body to issue bonds hereunder it shall ascertain and determine, and in its resolution or ordinance determining to issue such bonds shall find and declare, that by reason of tax delinquency and anticipated tax delinquencies and because of local economic conditions it would be unduly burdensome on the taxpayers of the municipality to pay and discharge the indebtedness so outstanding in the manner heretofore provided by law, and that the best interests of the municipality and its taxpayers will be served by the issuance of funding bonds pursuant to this act. Such resolution or ordinance shall also list and sufficiently identify all the items of indebtedness to be funded by such bonds, and the governing body shall ascertain and determine, and in such resolution or ordinance shall find and declare, that each item of indebtedness therein listed is a valid outstanding and enforceable obligation of the municipality incurred prior to January 1, 1931, and in all respects proper to be funded pursuant to this act. The determination of the governing body as to such matters shall be final and conclusively binding on such municipality, and shall never be called in question after such bonds have been delivered.

§ 3. The bonds authorized under the provisions of this act shall be issued in the manner prescribed by said Chapter 196, Laws of 1927 and acts amendatory thereof, except as otherwise specified herein. Such bonds shall mature serially, the first installment of principal thereof to fall due not more than three years and the last installment thereof to fall due not more than fifteen years from the date of such bonds. Insofar as such bonds may be issued for the purpose of funding indebtedness of the municipality represented by certificates of indebtedness issued pursuant to Chapter 326, Laws of 1923 and acts amendatory thereof, such bonds may be exchanged at par for such outstanding certificates of indebtedness at or after the maturity thereof, or prior to the maturity thereof if the holders of such certificates of indebtedness consent thereto. Except as authorized in the preceding sentence, all such bonds shall be sold in the manner and upon the terms specified in said Chapter 196, Laws of 1927 and acts amendatory thereof. In no event shall bonds issued pursuant thereto for the purpose of funding such certificate of indebtedness bear interest at a rate higher than the certificates of indebtedness funded thereby.

§ 4. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 5. This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1931.

CHAPTER 197  
(H. B. No. 198—Lynch.)

PAYMENT DEFICIENCIES SPECIAL IMPROVEMENT  
ASSESSMENTS

An Act to amend and re-enact Section 3716 of the Supplement to the Compiled Laws of 1913 as amended and re-enacted by Section 1 of Chapter 171 of the Session Laws of 1929, relating to tax levy to pay deficiencies in special improvement assessments.

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

§ 1. That Section 3716 of the Supplement to the Compiled Laws of 1913 as amended and re-enacted by Section 1, of Chapter 171 of the Session Laws of 1929 is hereby amended and re-enacted to read as follows:

§ 1. (3716) AMENDMENT.] Whenever all special assessments collected for a special improvement are insufficient to pay the special improvement warrants issued against such improvement with interest, the city council or city commission, as the case may be, shall upon the maturity of the last special improvement warrant levy a tax upon all of the taxable property in the city for the payment of such deficiency; provided, however, that if the improvement warrants issued for such improvement in any city, shall have been issued, prior to January 1, 1926, and any issue or any series of issue thereof so issued were in default in whole or in part on or before January 1, 1931, the tax to be levied each year for such deficiency shall not exceed ten mills on the dollar of all taxable property in the city; provided further, that if at any time prior to the maturity of the last special improvement warrant a deficiency exists in such special improvement fund, the city council or city commission, as the case may be, may in its discretion, levy a general tax upon all the taxable property in the city for the payment of such deficiency. In case a balance remains unexpended in such special improvement fund, it shall be paid over, or transferred, to the general fund of the municipality.

Approved March 11, 1931.

**CHAPTER 198**  
(H. B. No. 287—Jardine and Northridge.)

**POWERS PARK BOARDS**

An Act to amend and re-enact Subdivision 3 of Section 4059 of the Supplement to the Compiled Laws of North Dakota of 1913, relating to the powers of park boards.

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

§ 1. AMENDMENT.] That Subdivision 3 of Section 4059 of the 1925 Supplement to the Compiled Laws of North Dakota of 1913, be amended and re-enacted to read as follows:

§ 4059. POWERS OF PARK COMMISSION: LIMITED LEVY: BONDS.]

Subdivision 3. To pass all ordinances necessary and requisite to carry into effect the powers granted to Park Commissions, with such fines, penalties or forfeitures as the park commission may deem proper; provided that no fine or penalty shall exceed one hundred dollars and no imprisonment shall exceed thirty days, for one offense. Provided further that the police magistrate of the city or village or any justice of the peace within the city or village, shall have jurisdiction over such offenses.

Approved March 11, 1931.

**CHAPTER 199**  
(H. B. No. 237—Kneeland.)

**PRELIMINARY STATEMENT CITY BUDGET**

An Act to amend and re-enact Section 3684a5 of the Supplement to the Compiled Laws of North Dakota for the year 1913.

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

§ 1. AMENDMENT.] That Section 3684a5 of the Supplement to the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

§ 3684a5. PRELIMINARY BUDGET STATEMENT; CONTENTS.] The preliminary budget statement provided for in Section three hereof shall specifically set forth:

(1) The detailed expenses of the municipality for the last fiscal year.

(2) Estimated expenditures for the current fiscal year, which expenditures must be segregated and itemized under three groups as follows:

Group A. Maintenance and operation. This group shall cover all wages and salaries, and other items which comprise the current

expenses of the municipality, provided that although in the budget statement the whole amount paid for wages and salaries, may be stated in one sum, there must be on file with the council and open to public inspection, a detailed statement showing the names of all persons receiving salaries or wages, and the annual amount paid to each such persons.

Group B. Capital and betterment expenditures. This group shall cover new construction, major repairs and all other items which go toward adding to the permanent improvement and value of the municipal property.

Group C. Debt retirement. This group shall cover all amounts required to retire floating indebtedness, bond indebtedness, and to pay interest thereon during the current fiscal year; and also a statement showing the amounts and terms of bond issues, certificates of indebtedness, and warrants or other debts to be taken care of by the levies for debt retirement.

(3) The cash balance standing to the debit or credit of the municipality at the end of the last fiscal year.

(4) An estimate of the probable amounts that may be received during the current fiscal year from sources other than direct property taxes, and a statement of all uncollected taxes due to the municipality.

Provided that in addition to the specific sums provided for under Groups A and B of this section, the council may include in Group A and may appropriate a sum not exceeding five per cent (5%) of the total amount of said sums set forth in Groups A and B, for contingent expenses not otherwise provided for.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 9, 1931.

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CHAPTER 200  
(S. B. No. 65—Brunsdale.)

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REMOVAL BUILDINGS FROM LOTS IN MUNICIPAL  
CORPORATIONS

**An Act making it unlawful to remove buildings from lots in municipal corporations unless the taxes and special assessments levied against such lots are paid; fixing the penalty for the violation of this act and declaring an emergency.**

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

§ 1. It shall be unlawful for any person, firm or corporation to remove from any lot or tract of land in any municipal corporation upon which taxes, including special assessments have been levied, any building not assessed as personalty, and not exempt from taxation, until after such taxes and special assessments then due have been paid, and in case any such building is removed without the payment



of such taxes and special assessments, then such taxes and special assessments shall be a lien on the building so removed as well as upon such lot, lots, or tract of land in such municipal corporation. Any person violating the provisions of this section shall be guilty of a misdemeanor.

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

Approved March 10, 1931.

CHAPTER 201  
(S. B. No. 103—Porter.)

RIGHT OF WAY TELEPHONE, ELECTRIC LIGHT, GAS AND OIL  
PIPE LINE SYSTEMS

An Act to amend and re-enact Section 5144 Supplement to the Compiled Laws of 1913 relating to the right of way for telephone lines, electric light systems, and gas and oil pipe line systems.

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

§ 1. AMENDMENT.] That Section 5144 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 5144. The Board of County Commissioners of any county, board of supervisors of any township, board of aldermen of any incorporated city, or board of trustees of any town or village in this state, may, when deemed for the best interests of their respective municipal corporations, grant to any person, who is a resident of this state, or to any company or corporation organized under the laws of this state, or to any company or corporation duly licensed to do business within this state, the right of way for the erection of a telephone line or electric light system, or a gas or oil pipe line system, over or upon any public grounds, streets, alleys or highways under the care or supervision of such board granting such right of way. Such right of way shall be granted subject to such conditions, restrictions and regulations as may be prescribed by the board granting the same, as to what grounds, streets, alleys or highways said lines shall run upon, over, under or across, and as to the places where the poles to support the wires, or the pipes or conduits, shall be located, and all grants of right of way for the construction of telephone lines or electric light systems, or gas or oil pipe line systems, heretofore made, in accordance herewith, by any board mentioned, are hereby made valid.

§ 2. EMERGENCY.] Whereas, an emergency is hereby declared to exist in this, that there is no law on the statute books granting authority to county, township, city or village boards to grant right of way for gas or oil pipe line systems, therefore, this act shall be in force and effect from and after its passage and approval.

Approved March 6, 1931.

**CHAPTER 202**  
**(H. B. No. 240—Brunsdale.)**

**SINKING FUNDS CITIES, SCHOOL AND PARK DISTRICTS**

**An Act amending and re-enacting Section 2079b8 of the Supplement to the Compiled Laws of 1913, relating to sinking funds of cities, school districts and park districts.**

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

§ 1. AMENDMENT.] That Section 2079b8 of the Supplement to the Compiled Laws of 1913, be amended and re-enacted to read as follows:

§ 2079b8. SINKING FUNDS; CUSTODIAN OF; USE OF TO RETIRE BONDS; LIABILITY FOR SAFE KEEPING OF; AND FILING REPORTS TO TREASURER.] The County Treasurer shall hereafter be custodian of all sinking funds levied by all taxing districts within the county, excepting cities having a population of over four thousand, and school districts having a population of over four thousand, and park districts having a population of over four thousand, and, whether such sinking funds be for the purpose of retiring bonds issued pursuant to the terms of this act, or bonds issued pursuant to the provisions of any law now in effect, or hereinafter enacted. As tax collections are made of taxes levied for the purpose of paying the interest on or retiring the principal of bonds issued, such funds shall not be remitted to the treasurers of the taxing districts but shall be retained by the County Treasurer in a separate special fund maintained as a sinking and interest fund for the bonds of each of such taxing districts; and as such bonds mature the County Treasurer shall, upon warrant drawn upon him by the County Auditor, apply such sinking funds in retirement thereof, and also in payment of the interest thereon, as it becomes payable. It shall be the duty of the County Auditor to draw such warrants so as to pay the interest and retire the bonds at as early a date as possible. It shall be the duty of the County Treasurer to make quarterly reports to the treasurer of the taxing district, whose sinking funds he has in his possession, showing all collections added to such funds and showing all payments made from such funds, and showing the net balance in such funds from time to time. It shall be the duty of the County Treasurer to keep the sinking funds of each taxing district on deposit in such public depository as may have furnished proper bond therefor and as may have been designated by the governing board of the taxing district, and, when so deposited in such duly qualified public depository, the County Treasurer shall be relieved of personal responsibility for their safe keeping.

Approved March 9, 1931.

## CHAPTER 203

(H. B. No. 274—Olson of Burleigh by Request.)

## TERMS ELECTIVE CITY OFFICERS

An Act to amend and re-enact Section 3611 of the Compiled Laws of North Dakota for the year 1913, and declaring that an emergency exists, and that this act shall become effective immediately upon its passage and approval.

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

§ 1. AMENDMENT.] Section 3611 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

§ 3611. TERM OF OFFICE.] The elective officers of a city shall hold their respective offices for two years, and until their successors are elected and qualified, except in cities with commission form of government, and in such cities the president and members of said commission, the police magistrate and city justice of the peace hereafter elected shall hold their respective offices for four years.

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

Approved March 11, 1931.

## NEGOTIABLE INSTRUMENTS

## CHAPTER 204

(S. B. No. 98—Committee on Banks and Banking.)  
By Request of the Voluntary Banking Code Commission

## REGULATION RENEWAL NOTES

An Act to amend and re-enact Section 7068a1, Supplement to the Compiled Laws of 1913, regulating the taking of renewal notes.

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

§ 1. AMENDMENT.] That Section 7068a1, Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 7068a1. RENEWAL NOTES.] It shall be illegal hereafter for any individual, firm or corporation, state or national bank doing business in the State of North Dakota to take from any debtor or other person or concern obligated upon a negotiable promissory note, or other negotiable obligation, any renewal thereof without at the time cancelling and returning to the maker of such renewal the

original obligation so renewed unless at the time of such renewal the party to whom the same is given causes to be marked across the face of the renewed instrument in legible writing, in ink, or to be typewritten thereon, the word "*Renewed*" or words of like import and effect. Any individual, firm, or corporation taking any such renewal of note or contract without complying with the provisions of this section shall become liable to any person or concern for any and all loss or damage suffered by reason of such negligence, and any person or concern intentionally violating the provisions hereof shall in addition to such liability be deemed guilty of a misdemeanor.

Approved March 11, 1931.

## NORTH DAKOTA

### CHAPTER 205

(H. B. No. 79—State Affairs Committee.)

#### CAPITOL BUILDING COMMISSION

An Act providing for the construction of a Capitol Building for the State of North Dakota and for that purpose creating a Board of Capitol Commissioners, defining its powers and duties, making appropriations for such purposes, providing and appropriating tax levies and the proceeds of sale of the Capitol lands thereto, and authorizing the issuance of interest bearing certificates against the Capitol Building Fund.

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

§ 1. BOARD OF STATE CAPITOL COMMISSIONERS.] (a) For the purpose of erecting and completing a State Capitol Building for legislative, executive and judicial purposes for the State of North Dakota on the site now owned by it at the City of Bismarck, in the County of Burleigh and State of North Dakota, there is hereby created a Board to be known as the "Board of State Capitol Commissioners," hereinafter called "The Board." Said Board shall consist of three (3) members who shall be appointed, in writing filed with the Secretary of State, by the Governor, within thirty (30) days after the enactment and approval hereof, not more than two of whom shall be residents of the same Congressional District, and who, with their successors, shall serve until the completion and acceptance of said Capitol Building. Such appointees shall be electors of the State, and shall have been in good faith residents of the Congressional District from which they are appointed for at least five (5) years prior thereto.

(b) Such members shall qualify within ten (10) days after receiving notice of their appointment, by making and filing with the Secretary of State an oath in substance as follows: "I, A. B., do solemnly swear that I will support the Constitution of the United

States and of the State of North Dakota and that I will well and faithfully discharge the duties of State Capitol Commissioner; that I will not, directly or indirectly, be interested or concerned in any manner whatever in any transactions connected with the construction of the Capitol Building or with any contractor or any person whatsoever in the construction thereof or any work connected therewith or in the proceeds or profits growing out of the same or in any work or labor done or material furnished in the construction of the same. So help me God."

(c) Each member shall be bonded in the State Bonding Fund in the sum of twenty-five thousand dollars, conditioned for the faithful performance of his duties as such Commissioner; for a violation thereof an action may be maintained by the State in the District Court of Burleigh County.

(d) Any member may be removed by the Governor for cause, upon hearing, with ten (10) days notice thereof; vacancies from any cause shall be filled by the Governor by appointment in writing filed with the Secretary of State.

(e) Members shall be reimbursed for actual expenses incurred by them and shall receive no other compensation.

§ 2. SECRETARY — COMPENSATION — BOND — DUTIES.] Said Board is authorized to appoint a secretary, not of their number, and remove him at pleasure; his compensation shall be fixed by the Board, not to exceed four thousand dollars per year; he shall be bonded in the State Bonding Fund in the sum of twenty-five thousand dollars conditioned for the faithful performance of his duties and prompt and full accounting for any and all money or property coming into his hands and shall take the same oath prescribed for the Commissioners, adapted to his office.

(a) He shall keep a true and complete record of all contracts and obligations entered into, by and with the board, and of all the transactions of the Board and minutes of its proceedings.

(b) He shall keep a set of books showing:

1. All expenditures on account of said Board.
2. All expenditures on account of the Capitol Building, and
3. At all times the financial condition of the Board and of the funds appropriated for and applicable to the purposes of this act, and all matters relating thereto.

(c) He shall attest all certificates ordered by the Board, as well as all contracts.

(d) He shall, as of the first day of January of each year, prepare a financial report for the preceding year containing an exhibit of all contracts entered into and an itemized and classified statement of all expenditures, and a list of all vouchers issued showing to whom and for what purpose they were issued, which reports shall be filed in the office of the Governor and of the State Auditor

and published within thirty (30) days after the first day of January of each year in two newspapers to be selected by the Board, and a copy transmitted by the Board to the Legislature at its next regular session.

(e) All Contracts made with said Board and all bonds required by said Board shall be regularly passed upon by the Board in session and if adopted and approved by a majority of said Board shall be recorded in a book kept for that purpose; and a duplicate of each of such contracts shall be made out and certified by the Secretary and indorsed "Approved" with the date of approval, and delivered to the other party thereto. Until such delivery no contract shall be valid or binding on either party.

(f) No party required by said Board to give bond shall receive any money from the public treasury, or warrant or certificate therefor, until said bond shall have been recorded as herein required. All such bonds and contracts upon being recorded shall be filed in the office of the State Auditor, by whom they shall be indexed and preserved. All other vouchers, statements, files, and papers relating to the erection of said building shall be kept and preserved by said secretary until the completion and acceptance thereof, when the same shall be turned over to the Secretary of State.

(g) He shall perform such other duties as may be required of him by said Board.

§ 3. POWERS AND DUTIES OF BOARD.] Two of the members shall constitute a quorum and shall have power to transact business and may adjourn meetings from time to time. The Board may hold regular monthly meetings and may hold special meetings at any time or place upon such notice as it sees fit; the Board shall meet at Bismarck, North Dakota, and organize within ten (10) days after the members receive notice of their appointment, by the election of a President, Vice-President, and Secretary; the President shall preside at all meetings and, with the Secretary, shall sign all contracts, vouchers, and official papers; the Vice-President shall preside and act in the absence and/or incapacity of the President; the Board shall have power and authority and it shall be its duty:

(a) To locate said capitol building at the place in the present capitol grounds, most sightly and suitable therefor;

(b) To secure the submission of plans and designs appropriate to a capitol building for the State of North Dakota, the reasonable cost of which building shall be two million (\$2,000,000.00) dollars, and no more; and from such plans and designs as may be worthy and adequate to secure the selection of the most desirable plan and design and to obtain proper architectural designs, plans, specifications and details in conformity with such plan and design.

(c) To secure the erection and completion of said capitol building conforming faithfully to such plan and design.

(d) To employ and enter into a contract with an architect to prepare such plans, designs, specifications, and details; if such architect is a non-resident he shall associate with him an architect who is a bona fide resident of the State of North Dakota and duly licensed as such architect under the laws of North Dakota; the Board may also employ and engage such associate and/or assistant or consulting architects as it deems necessary.

(e) To pay from the Capitol Building Fund such reasonable legal fees and expenses as may be necessary under the provisions of Section 16 of this act, and to engage and employ such supervisor or supervisors, inspector or inspectors and such other assistants, employees, and aids as may be convenient and necessary to carry out the duties and authority hereby conferred upon the Board, and to fix the salaries thereof, and to remove and discharge the same at its pleasure.

(f) To make and enter into any and all contracts for the construction of said buildings as may be necessary, including contracts for work, labor, material, supplies, and all other purposes, and to buy and purchase or otherwise acquire any and all materials and supplies which may be necessary, and to sell and dispose of any thereof which may be found unnecessary or unfitted or which for any reason should be sold.

(g) To tear down, wreck, clear, and salvage the ruins of the present capitol building, and to sell, either at public or private sale upon such notice as it deems proper, any and all material which may be saved or recovered therefrom or to make use thereof in the construction of the new capitol, and to make and enter into any contract therefor; or the Board shall have authority to perform such work by day labor.

(h) To make any and all necessary contracts of insurance and to require that all workmen shall be within the Workmen's Compensation Fund.

(i) The Board shall have power and authority to do and perform any part of the work by day labor if deemed necessary.

(j) To adopt and promulgate rules and regulations for the transaction of its business and to carry out and fulfill the purposes hereof.

(k) The State hereby waives its exemption from suit and authorizes said Board to sue and be sued in the name of the "Board of Capitol Commissioners of the State of North Dakota" on account of, or in connection with, any and all contracts and all other transactions authorized herein, excluding, however, causes of action arising in tort.

§ 4. UNLAWFUL TO BE INTERESTED IN CONTRACT—PENALTY.]  
It shall be unlawful for either of the said Commissioners or for the Secretary or Superintendent or any other employees of said

Board, to be interested, either directly or indirectly, in any manner whatsoever in any contract for the construction of said Capitol Building or for any work connected therewith or for the furnishing of any supplies or material therefor so as to receive any benefit therefrom, or the promise of any benefit therefrom of any kind whatsoever, and any of said persons who shall violate this section shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment not exceeding one (1) year or to a fine not exceeding ten thousand dollars, or both, and in addition thereto excluded from holding any office of trust or profit in this State.

It shall be unlawful for said Board to employ or continue in its employment in the supervision or superintendence of the building of said Capitol or of any work connected therewith, any person who is in any manner connected with or interested in, directly or indirectly, any contract for the erection of said Capitol Building or for the furnishing of any supplies or material therefor; and the said commissioners are hereby charged with the rigid enforcement of the provisions of this act.

§ 5. PLANS AND SPECIFICATIONS.] The Board, as soon as practicable after the passage and approval of this act, shall proceed, in such manner as it deems best, to procure and select plans and specifications for the construction of the Capitol Building of the State of North Dakota and to receive bids for the performance of the work thereunder. No plan and specification shall be adopted nor bid accepted or contract entered into, unless a majority of all of the members of the Board shall vote in favor thereof.

No plans and/or specifications shall be adopted until careful estimate has been made of the cost of supervision, labor, material and other expenditures necessary to complete the same, it being the object of this act to restrict the aggregate and entire cost of all expenditures to be made under this act to the sum of two million dollars; and all contracts awarded and plans adopted shall be awarded and adopted only after the Board shall be satisfied that the cost of carrying out the provisions of this act shall not exceed said sum.

§ 6. BIDS FOR CONSTRUCTION AND MATERIAL.] Save as herein otherwise provided, all labor, material, transportation (except by rail) or construction, required by this act, as well as all job printing, advertising or other work shall be done or furnished by contract.

The Board is authorized to contract for the performance of the entire work by a contractor who may undertake the whole work, or it may divide the work into appropriate classes and make separate contracts as to either of them as may seem to it to be for the best interests of the State.

No construction or material shall be furnished except pursuant to bids advertised for as herein provided. The Board shall not ask for bids for any article of a specified or copyrighted brand or



name, or the product of any one manufacturer, or any patented apparatus or appliance, when such requirements will prevent proper competition, unless bids shall also be asked on other similar articles of equal value, utility and merit. All lettings on construction or material exceeding in amount the sum of one thousand dollars shall be advertised once each week in four daily newspapers of general circulation for not less than twenty-one days. The bid of the lowest responsible bidder shall be accepted; saving that the Board shall have the right to reject any and all bids; and whether accepted or rejected, all bids shall be retained by the Secretary of the Board. The performance of every contract shall be secured by a bond to the State of North Dakota in a sum not less than one-half of the contract price, in a Surety Company organized in and/or duly authorized to transact business in the State of North Dakota, and approved by the Board, said bond to be conditioned for the full, faithful and complete performance of said contract and to be for the use of the State and any one who may perform any work or furnish any material under said contract who may bring an action thereon. No sub-letting of such contract or any part thereof, and no modification of the structure or work covered thereby, and no payments to the contractor prior to the time specified in the contract and no extension of time in the performance of the work shall operate to release the surety or sureties on said bond. Each bid shall be accompanied by a bidder's bond and a certified check in an amount equal to three per cent of such bid, conditioned for the execution and faithful performance of a contract in accordance with said bid if the same shall be accepted by the Board. All contracts shall reserve the right of the Board, for good cause shown, to annul the contract without allowance for damages, and allowing only expenses incurred and labor performed, not exceeding the contract price or the proportion that the work done or material furnished thereunder bears to the total amount contracted for. Ten per centum of the amount allowed shall be reserved from payments on monthly estimates of work done, until such work shall have been completed, inspected and accepted. All material contracted for shall be of the best quality and to the satisfaction of the Board; and the directions, plans and specifications of the work shall be executed and carried out by skilled and reputable architects, contractors, artists, mechanics and laborers, likewise to the satisfaction of the Board.

§ 7. COMPENSATION AND DUTIES OF ARCHITECT.] The Board shall fix the compensation and duties of all architects and of any supervising architect employed by it. No architect nor any of his subordinates or assistants shall be in any way connected with any work done or material furnished for said building, or any contract therefor, or shall have any interest therein, directly or indirectly. The architect shall furnish a bond to the State of North Dakota in the sum of Fifty Thousand Dollars in a Surety Company organized in or authorized to transact business in the State of North Dakota

and approved by the Board, conditioned for the full, faithful and complete performance of said architect, his assistants and subordinates of his and their duties as herein prescribed.

§ 8. SUPERINTENDENT OF CAPITOL BUILDING.] The Board may appoint a specially qualified person to act as Superintendent of the construction of said Capitol building. It shall be his duty to see that all contracts made with the Board are faithfully performed, that all material furnished and work done shall be as required by law or the contract therefor, that all duties imposed upon the architect are faithfully performed by him and his subordinates and that no provisions of this law are violated, to report to the Board any violation of this law or of any contract or of duty by any architect, contractor, or employee of said Board, and to do such other duties as may be required of him by the Board. Said superintendent shall receive as his compensation such sum as the Board shall deem reasonable; and he shall be removable at the pleasure of the Board. He shall give a surety bond in the sum of Ten Thousand Dollars by a Surety Company organized in or authorized to transact business in the State, to be approved by the Board and filed with the Secretary of the Board, and shall take the same oath as members, adapted to his position.

§ 9. MATERIALS FROM NORTH DAKOTA.] The Board shall have and is hereby given power and authority where the kind of material to be used in the construction of the Capitol building is not specifically fixed by this Act, to use such material as it may deem best for said building; the said building shall be built of stone, brick, iron, steel, concrete and/or other fire proof material as far as practicable. All material shall be procured in the State of North Dakota, provided the same are products of said State and can be procured and delivered at the site at a cost not exceeding five per cent more than the lowest amount for which material equally good can be procured elsewhere. Said Capitol building shall contain all chambers, rooms, corridors, halls, safes, vaults and other features and appurtenances appropriate to a Capitol building, and shall be fire proof. It shall be equipped with the most improved methods of lighting, heating, drainage and ventilation.

§ 10. PREFERENCE TO NORTH DAKOTA CONTRACTORS AND LABOR.] Preference shall be given to all bona fide contractors who have been continually in business in the State of North Dakota for the period of at least one year prior to the taking effect of this Act, to the extent of three per cent, and wherever practicable preference shall be given to bona fide residents of the State of North Dakota in all work, labor, employment and positions in and about and connected with said work.

§ 11. MANNER OF MAKING DISBURSEMENTS.] All disbursements on account of the construction of the Capitol building shall be made pursuant to certificates issued by the Board. All architects'

estimates, claims, bills and demands for labor performed, work done, or material furnished shall be presented to the Board in the form of an original and a duplicate, and shall be passed upon by said Board only and after a careful examination of every item named. If found correct, the Board shall audit the same, preserving the duplicate and transmitting the original as audited and allowed to the State Auditor, and shall issue a certificate to the effect that such services have been rendered or material furnished, and the person therein named is entitled to a warrant on the treasury to the amount therein named which shall take into account the reservation fixed in the contract. Upon the presentation of said certificate and the original of the vouchers therefor, as audited and approved by the Board as herein provided, to the State Auditor, he shall draw his warrant on the State Treasury on the "State Capitol Building Fund" for the amount stated and to the order of the person named in said certificate. All certificates issued shall be recorded in a book kept for that purpose. The Board shall meet at least once in each calendar month for the foregoing purposes.

§ 12. STATE CAPITOL BUILDING FUND.] To the end that funds may be provided to carry out the provisions and requirements of this law there is hereby assigned, allocated and appropriated to the "State Capitol Building Fund" all moneys, investments, securities, real and personal property, together with any and all interest upon, increment to and improvements thereof as follows:

(a) All moneys heretofore or hereafter realized from the tax levy for the purpose of erecting a new Capitol building and equipping the same under Chapter 236, Session Laws 1929 and all Acts amendatory thereof, with interest thereon and increment thereto.

(b) All moneys either heretofore or hereafter realized out of and from the sale of lands donated and granted to the State of North Dakota under and by the provisions of Sections 12 and 17 of the "Enabling Act" approved February 22, 1889, for the purpose of erecting public buildings at the Capitol of the State for legislative, executive, and judicial purposes, with the interest thereon and increment thereto or any improvements thereof, and any and all investments, bonds, mortgages or other security in which the same may be invested.

(c) Any and all other moneys rightfully belonging to or heretofore appropriated for the purpose of constructing a Capitol building.

§ 13. APPROPRIATIONS.] In order to carry out the provisions of this Act there is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of Four Hundred and Thirty Thousand Dollars; and there is hereby appropriated out of the "State Capitol Building Fund" the sum of One Million Five Hundred and Seventy Thousand Dollars.

§ 14. BOARD OF COMMISSIONERS AUTHORIZED TO ISSUE ANTICIPATION CERTIFICATES OF INDEBTEDNESS.] The Board of Capitol Commissioners is hereby authorized for the purpose of anticipating the receipt of the proceeds of the sales of lands referred to in Section 12 hereof, and of moneys to be collected from the tax levy mentioned in Section 12 hereof, under Chapter 236, Session Laws 1929, and all Acts amendatory thereof, to issue certificates of indebtedness bearing interest at a rate not to exceed five per cent per annum, payable annually or semi-annually, which shall be known as "State Capitol Building Fund Certificates" and which shall be exempt from taxation, conditioned as follows:

(a) The aggregate amount of par value of such certificates issued shall not exceed One Million Dollars; such certificates shall mature at such time or times as the Board of Capitol Commissioners and State Auditor shall determine but care shall be used that no more of the principal and interest shall fall due in any year than can be paid when due, out of the capitol building fund; and every such certificate shall mature in not to exceed ten years from the date of its issue.

(b) The said certificates shall be in such denominations and form as the Board and State Auditor shall determine, but shall plainly show upon their face the purpose for which they are issued, the time of maturity and shall contain a proper reference to this section of this Act and shall be made payable at the office of the State Treasurer.

(c) The said certificates shall be issued from time to time as the work of construction of the Capitol progresses, and only in such sums as the Board may deem necessary to provide the necessary funds to pay for material and labor and to carry out the provisions of this Act; the said certificates shall be signed by the president or vice-president of said Board and the State Auditor, who shall keep a proper register thereof and who shall deliver them to the State Treasurer. They shall be attested by the Secretary of the Board.

(d) The Board shall sell the certificates to the highest bidder, but no bid for less than par shall be accepted; and the certificates shall be delivered by the Treasurer to purchasers only on payment into the State Treasury of the amount for which they are sold. The proceeds of the sales of such certificates shall be placed in the "State Capitol Building Fund" and shall be used for carrying out the provisions of this Act.

(e) In lieu of selling all or any part of the certificates as above provided, the said Board may, if it deems best, at the time of employing any person, or making or letting any contract, or at any time thereafter, offer all or any part of such certificates to the person, firm, or corporation employed or contracted with, in payment of the work, labor, skill or material performed or furnished by such person,

firm, or corporation. But in such case the certificates shall not be offered or received in payment for less than the par value thereof, and shall only be delivered by the State Treasurer to such person, firm or corporation upon full and complete statements, of accounts, certified and audited as provided in Section 11 hereof. Nothing herein contained shall be construed to compel any person, firm, or corporation to receive such certificates in payment for work, labor, skill, or material unless it is so provided in the contract under which such work, labor, skill, or material is performed or furnished.

(f) The principal and interest of said certificates when due shall be paid by the State Treasurer, on the warrant of the State Auditor, out of the funds in the State Capitol Building Fund; and sufficient of such funds shall be set apart to meet the maturing certificates in each and every year that such certificates shall mature. Said certificates shall constitute a first charge upon the funds in said State Capitol Building Fund; and the liability of the State shall be limited to the faithful and ratable application to the payment thereof, of such funds.

§ 15. TIME OF COMPLETION OF BUILDING.] The entire construction of the Capitol Building shall be completed by the first day of January, 1936.

§ 16. LEGAL ADVISER.] The Attorney General shall be the legal adviser of the Board and the Board is authorized to call upon him at all times for legal counsel and advice, and the Attorney General is authorized to appoint such Special Assistant Attorney General as may be necessary to carry out the provisions of this Act, such Assistant Attorney General to be paid as provided for in Section 3e.

§ 17. EFFECT OF PARTIAL INVALIDITY.] The object sought to be accomplished by this enactment is to provide for the construction by the State of North Dakota, of a Capitol Building at the City of Bismarck, in the manner and for the purposes provided in this Act; and the provisions relating to the manner in which these objects are to be accomplished do not form an inducement for the enactment. And it is hereby declared that if any of the provisions of the act in any manner contravene the provisions of the Constitution, the remaining provisions would have been enacted by this legislative assembly even though such provisions had been eliminated from the act. Hence, if any of the provisions are found to be violative of the Constitution, the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

§ 18. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

§ 19. EMERGENCY CLAUSE.] This Act is declared to be an emergency measure and shall take effect from and after its passage and approval.

Approved February 23, 1931.

## CHAPTER 206

(H. B. No. 220—Steenson and Lamb.)

## CHICAGO INTERNATIONAL EXPOSITION COMMISSION

An Act to provide for the collection, arrangement and display of the products and resources of the State of North Dakota at the Chicago International Exposition to be held at the City of Chicago in the State of Illinois, in the year A. D. 1933, and providing for a Board of Commissioners therefor, and making an appropriation for such purpose.

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

§ 1. COMMISSION CREATED. MEMBERS OF.] For the purpose of exhibiting the resources, products and advantages of the State of North Dakota at the Chicago International Exposition to be held in the City of Chicago in the year A. D. 1933, a Commission is hereby created to be known as the Chicago International Exposition Commission, which Commission shall be composed of the Governor, the Secretary of State, the Commissioner of Agriculture and Labor, and the Commissioner of Immigration, and three citizens of the State to be appointed by the Governor. The Governor shall be the President of the Commission and the Commissioner of Agriculture and Labor shall be its Secretary.

§ 2. MEETINGS. MANAGER.] The Commissioners shall meet at the call of the Governor at such time and place as he shall designate. The Commissioner of Immigration shall be the Manager, and is hereby authorized and required to assume and exercise, subject to the supervision of the Commission, all such functions as may be necessary to secure a complete and creditable exhibit of the industries of the state at said International Exposition, and shall have personal charge of the solicitation, collection, transportation, arrangement, and exhibition of the products and resources of the state. Such manager shall, with the approval of the Commission, employ all help and assistance necessary to carry out the purpose of this Act.

§ 3. COMPENSATION OF COMMISSION MEMBERS.] Members of the Commission as herein named shall not receive any compensation for their service as such Commissioners, except their actual necessary expenses for transportation, and Six Dollars per day for subsistence for each day they are necessarily absent from their homes on the business of said Commission.

§ 4. EXPENSES. HOW PAID.] Expenses incurred under this Act shall be audited and paid in the manner provided by law for the payment of expenses of state officers; provided that no bill shall be audited or paid unless "approved" in writing by the Commission.

§ 5. APPROPRIATIONS.] There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the

sum of Eighteen Thousand Dollars, or so much thereof as may be necessary, for the purpose of carrying out the provisions of this Act.

§ 6. COMMISSION SHALL REPORT, WHEN.] Said Commission shall make an itemized statement of all its expenses and disbursements to the Twenty-fourth Legislative Assembly of the State of North Dakota.

Approved March 11, 1931.

#### CHAPTER 207

(H. B. No. 22—Committee on Game and Fish.)

#### CONSENT TO U. S. ACQUISITION MIGRATORY BIRD RESERVATIONS

An Act Consenting to the acquisition by the United States of land, water, or land and water, within the State of North Dakota for migratory bird reservations, authorized by Act of Congress of February 18, 1929.

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

§ 1. Consent of the State of North Dakota is given to the acquisition by the United States by purchase, gift, devise, or lease of such areas of land or water, or of land and water, in the State of North Dakota, as the United States may deem necessary for the establishment of migratory bird reservations in accordance with the Act of Congress approved February 18, 1929, entitled "An Act to more effectively meet the obligations of the United States under the Migratory Bird Treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement and for other purposes", reserving, however, to the State of North Dakota full and complete jurisdiction and authority over all such areas not incompatible with the administration, maintenance, protection, and control thereof by the United States under the terms of said Act of Congress.

Approved March 2, 1931.

## CHAPTER 208

(S. B. No. 96—Brunsdale, Cain, Sathre and Stucke.)

## INDUSTRIAL SURVEY COMMISSION

An Act creating an Industrial Survey Commission for the State of North Dakota, defining its duties and making an appropriation therefor.

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

§ 1. There is hereby created an Industrial Survey Commission for the State of North Dakota which shall consist of the Governor, the Secretary of State and the Attorney General.

§ 2. It shall be the duty of said Commission to institute and carry on a state-wide industrial survey, including a study of the state's natural resources and agricultural production trends promising industrial development, and an analysis of traffic problems, services available to industry from departments of the state government and state institutions, and all other factors which may be involved in any way in further industrial development of the State of North Dakota.

§ 3. The said Commission may assign such parts of its research, studies and analyses, as it may decide, to departments, commissions or bureaus of the state government or to state institutions, special committees or qualified individuals or organizations; provided, however, that all findings, conclusions, and recommendations must be approved by said Commission before they may become a part of the Commission's final report.

§ 4. The said Commission, as soon as it is practicable, and prior to the convening of the next session of the legislative assembly, shall cause to be published in pamphlet form a report of its findings, conclusions and recommendations, said report to be known as the Industrial Survey of North Dakota.

§ 5. There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, the sum of Ten Thousand Dollars (\$10,000) to be used for the payment of the necessary expenses of said Commission, to be expended upon vouchers drawn by the Commission against said fund in the State Treasury.

§ 6. This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 11, 1931.



## CHAPTER 209

(S. B. No. 200—Hyland, Fredrickson and Putnam.)

## MISSOURI RIVER COMMISSION OF NORTH DAKOTA

An Act creating the Missouri River Commission of North Dakota, defining its powers and duties, making an appropriation therefor, and repealing Chapter 161 of the Session Laws of North Dakota for 1929.

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

§ 1. There is hereby created The Missouri River Commission of North Dakota which shall be composed of five members and shall consist of the Governor, the Adjutant General and three residents of the State, to be appointed by the Governor and to hold office for a period of two years. The State Engineer shall be Ex-officio Secretary of said Commission. The members of said Commission shall receive no compensation, but shall be reimbursed for their actual and necessary traveling expenses.

§ 2. It shall be the duty of such Commission to formulate a state waterway development program which shall contemplate the improvement of the Missouri River and its tributaries for navigation and flood control purposes, and the conservation of the waters of the principal lakes, rivers and streams of the state; to cooperate with other Missouri River Valley and Mississippi Valley States in securing the adoption of such waterway development program by the United States Government as a part of the national waterway improvement program; to act in conjunction with similar commissions, bureaus and officers of other states in promoting the improvement of the Mississippi Valley and the Missouri Valley Rivers for navigation, flood control and water conservation purposes; and to arrange for proper representation in behalf of the State of North Dakota at any waterway conferences, conventions, Congressional or legislative hearings dealing with such waterway problems as in the judgment of the Commission may be deemed advisable. In carrying out these duties the Commission may call upon and receive the assistance of any state department, state officer or state institution.

§ 3. There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of \$5,000.00, or so much thereof as may be necessary, to carry out the provisions of this Act.

§ 4. REPEAL.] Chapter 161, Session Laws of North Dakota for 1929 is hereby repealed.

Approved March 11, 1931.

## CHAPTER 210

(H. B. No. 184—Traynor.)

## N. D. GOVERNMENTAL SURVEY COMMISSION

An Act to provide for the creation of a North Dakota Governmental Survey Commission, defining its powers and duties and making an appropriation therefor.

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

§ 1. CREATING COMMISSION, TERM, APPOINTMENT, VACANCIES.] There is hereby established a North Dakota Governmental Survey Commission to consist of five (5) members to be appointed by the Governor, all of whom shall be electors of the State of North Dakota. The term of office of the members of such Commission shall expire on December 31, 1932. Any vacancy occurring on the Commission from any cause shall be filled by the Governor.

§ 2. ORGANIZATION, EMPLOYEES, ETC.] Within thirty days after the taking effect of this Act, the Commission shall meet at the State Capitol upon the call of the Governor, and shall organize by electing one of its members as chairman and adopting rules to govern its procedure. The Commission may employ a secretary and such other employes as it may deem necessary for the proper performance of its duties.

§ 3. COMPENSATION, EXPENSES.] Each member of said Commission shall be entitled to his actual traveling and other necessary expenses, and in addition, compensation of \$8.00 per day while actually engaged in work assigned to him by the Commission, including attendance upon Commission meetings.

§ 4. POWERS, DUTIES, OBJECTS AND PURPOSES.] It shall be the duty of the Commission to make a comprehensive survey and investigation of the structure, functions and processes of the entire government of North Dakota, including the executive departments of the State Government, and all Municipalities and political subdivisions, including towns, villages and cities, townships, school districts and counties; provided that such survey and investigation shall not extend to either the judicial or legislative branches of the state. The Commission is hereby authorized and empowered to appoint, either from its membership or otherwise, sub-committees for the purpose of making a special survey of any particular department, bureau, commission or function of the State, or any political subdivision. It shall be the object and purpose of such survey and investigation to discover ways and means whereby the cost of local and state government may be substantially reduced and greater administrative efficiency introduced into the governmental systems of the state. To this end, the Commission shall carefully consider means to accomplish the following objects:

- (1) The elimination of waste and unnecessary public expenditures.
- (2) The elimination of such governmental functions and activities as are not required to promote or protect the public welfare.
- (3) The consolidation of departments, functions and offices in state and local governments.
- (4) The consolidation and re-organization of local and municipal taxing districts with the view of eliminating duplication of efforts, overlapping powers and duties, and the concentration of official responsibilities.
- (5) The elimination of obsolete and cumbersome administrative methods and the improvement of governmental machinery in keeping with modern standards of business efficiency.
- (6) The general reconstruction and readjustment of administrative and executive functions in the whole system of state and local governments with the view of simplifying its methods, strengthening its processes, increasing its efficiency and lessening the burden of taxation.

§ 5. PUBLIC HEARINGS.] To facilitate the work of the Commission, it shall have free access to all public records, files and official reports relating to the matter under investigation, and it may hold public hearings at such places within the state as it may deem necessary for the proper performance of its duties and it may require any public official or employee of any state department, municipality or political subdivision to appear before it and furnish to the Commission any information, data or other matter within his possession or knowledge pertaining to the subject matter under investigation by the Commission.

§ 6. REPORTS AND RECOMMENDATIONS.] The Commission shall on or before December 1st, 1932, file with the Governor, a full and complete report of its findings and recommendations, who shall thereafter transmit a copy of such report to the Legislature. In such report the Commission shall make such recommendations as in its judgment would accomplish one or more of the objects and purposes specified in Section 4 hereof.

§ 7. APPROPRIATION.] There is hereby appropriated from the General Funds in the State Treasury, not otherwise appropriated, the sum of \$10,000, or so much thereof as may be necessary for the purpose of carrying out the provisions of this Act.

Approved March 9, 1931.

# OLEOMARGARINE

## CHAPTER 211

(H. B. No. 96—McDowall, Opdahl, Morgan, and Sundby of McLean.)

### SALE, ETC., OF OLEOMARGARINE

**An Act defining oleomargarine, requiring the licensing of manufacturers and wholesale and retail dealers in oleomargarine and other substitute for dairy products, fixing the license fees and sale tax for same and providing penalties for the violation of this act.**

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

§ 1. That for the purpose of this Act certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as "Oleomargarine", namely: All substances heretofore known as Oleomargarine, Oleo, Oleomargarine oil, butterine, lardine, suine and neutral; all mixtures and compounds of Oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, fish oil or fish fat, vegetable oil, annatto, and other coloring matter, intestinal fat, and offal fat—if (1) made in imitation or semblance of butter, or (2) calculated or intended to be sold as butter or for butter, or (3) churned, emulsified, or mixed in cream, milk, water or other liquid, and containing moisture in excess of 1 per centum. This section shall not apply (1) to puff pastry shortening not churned or emulsified in milk or cream, and having a melting point of one hundred and eighteen degrees Fahrenheit or more, nor (2) to any of the following containing condiments and spices: salad dressing, mayonnaise dressings, or mayonnaise products, nor (3) to pharmaceutical preparations.

§ 2. It shall be unlawful for any person, firm or corporation by himself, his or its servant or agent or as the servant or agent of another to sell, exchange or offer for sale or have in possession with intent to sell or offer for sale or exchange any Oleomargarine in this State without first having obtained a license therefor, which license shall be granted and issued by the State Food Commissioner and shall be in force and effect until July 1st of the second year following the date of issuance unless sooner revoked; said license shall be for a two year period beginning July 1st and ending June 30th of the second year following the issuance thereof. It shall be granted only to a person, firm or corporation owning or operating the place from which or in which oleomargarine shall be manufactured or sold, which place shall be within the territorial limits of the State of North Dakota. Each license shall be numbered and shall show the residence and place of business of the licensee and shall not be transferable. The State Food Commissioner may revoke the license of any person,

firm or corporation violating any of the provisions of this Act. No license shall be issued until the applicant has paid the fee hereinafter provided: Manufacturer, \$10.00; wholesaler or distributor, \$5.00; retail dealer, \$2.00. Each license shall cover but one place of business. All moneys received by the Food Commissioner for licenses shall at the close of each calendar month be transmitted to the State Treasurer and by him credited to the general fund of the State. Upon revocation of any license the State Food Commissioner shall immediately notify the State Treasurer in writing of such revocation.

§ 3. There is hereby imposed and there shall be collected by and paid to the State Treasurer upon the sale of all Oleomargarine sold in this State to consumers, a tax of ten cents per pound. Oleomargarine shall be sold in this State in packages containing not less than one pound, and not to exceed thirty pounds. Whenever a box, carton or other container of Oleomargarine is received by a retailer, there must be forthwith attached to each package a suitable stamp denoting the tax thereon, said stamp to be cancelled under the regulations of the State Food Commissioner. If a manufacturer, wholesaler or distributor shall sell to other than a retail dealer, said manufacturer, wholesaler, or distributor shall attach and cancel the required stamps on such sales.

§ 4. No person shall use or consume within this State any Oleomargarine unless the same shall be taken from a package or container having attached thereto the stamps as hereinbefore provided and required. The penalty for so using or consuming Oleomargarine without having stamps so attached shall be that provided in Section 7 of this Act.

§ 5. Every manufacturer, wholesaler or retail dealer in Oleomargarine shall keep all surplus and open stock in such form as may be prescribed by the State Food Commissioner, and a manufacturer or wholesaler shall keep a record of all sales and a retail dealer shall keep a record of all purchasers, and such records shall include invoices of bills for all such purchases and shall at all times during business hours be subject to inspection by the State Food Commissioner or by any person duly authorized by him.

§ 6. Any keeper or proprietor of any hotel, boarding house, restaurant, lunch counter or other place where meals are served, who uses or serves therein for his guests any oleomargarine as a substitute for butter, the manufacture or sale of which is regulated by this Chapter, shall print plainly and conspicuously on the bill of fare, if there is one, the words "Oleomargarine Used Here", and shall post up conspicuously in different parts of each room where such meals are served, signs in places where they can be easily seen and read, which shall bear the words "Oleomargarine Used Here" in letters at least one inch high and at least one-half inch wide, and so printed as to be easily read by guests or boarders.

§ 7. PENALTY.] Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall, for a first offense, be punished by a fine of not less than \$25.00 or more than \$100.00, or by imprisonment in the County jail for not to exceed thirty days, or by both such fine and imprisonment; and for the second and each subsequent offense by a fine of not less than \$100.00 nor more than \$500.00, or by imprisonment in the County jail for not less than thirty or more than ninety days, or by both such fine and imprisonment. The enforcement of the penal provisions of this Act is enjoined upon every officer and official whose duty it is to enforce the laws of this State and any such officer failing to enforce the same shall be subject to removal from office in the manner provided by law.

§ 8. It shall be unlawful for any person with the intent to defraud the State to make, alter, forge or counterfeit any license or stamp provided for in this Act, or to have in possession any forged, counterfeited, spurious or altered license or stamp, knowing the same to be forged, counterfeited, spurious or altered, and whoever is found guilty of any violation of this sub-section shall be fined not more than \$1000.00, or be imprisoned in the State prison for not more than three years, or by both such fine and imprisonment.

§ 9. The State Auditor shall prepare and have suitable stamps for use on each kind of package described herein. Upon requisition from the State Treasurer the State Auditor shall deliver to his order the stamps designated in such requisition and shall charge the State Treasurer with the stamps thus delivered, and shall keep an accurate records of all stamps coming into and leaving his hands. The moneys received from the sale of such stamps shall be turned into the general fund of the State. The State Treasurer shall redeem and make repayment for any unused stamps on written request and shall pay for the same out of any funds derived under the provisions of this Act. It shall be unlawful for a dealer to sell or dispose of such stamps to another dealer or to any person whomsoever, except whenever a person owns or operates more than one place of sale, stamps may be distributed to the various places of sale by the main office, but each place of sale must have a separate license and cancellation stamp.

§ 10. The State Treasurer in the enforcement of this Act may call to his aid the Attorney General, any State's Attorney and peace officer and is authorized to employ such clerks and additional help as may be needed to carry out the provisions of this Act.

§ 11. And it is hereby declared that if any of the provisions of the Act, or any section thereof, in any manner contravene the provisions of the constitution, the remaining provisions would have been enacted by this legislative assembly even though such provisions had been eliminated from the Act. Hence, if any of the provisions are

found to be violative of the constitution the remaining provisions shall not be affected by such invalidity, but shall remain in full force and effect.

Approved March 10th, 1931.

## PHARMACY

### CHAPTER 212

(S. B. No. 79—Porter.)

#### EXEMPTIONS REGISTRATION OF PHARMACISTS; EMERGENCY MEDICINES

An Act to amend and re-enact Sections 499, 500 and 503 of the Compiled Laws of North Dakota for the year of 1913, relating to who exempt from employing a registered pharmacist and providing for designation by Board of Pharmacy of simple household remedies and providing for sale by certain retailers of emergency medicines and poisons, under license from State Board of Pharmacists, and for designation by State Board of Pharmacy of such emergency medicines and poisons and prescribing penalty for the violation thereof.

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

§ 1. That Section 499 of the Compiled Laws of North Dakota for the year of 1913 be amended and re-enacted to read as follows:

§ 499. WHO EXEMPT.] Nothing in this Act shall apply to, or interfere with any practitioner of medicine who is duly registered as such by the State Board of Medical Examiners of this State, with supplying his own patients, as their physician, with such remedies as he may desire, nor does this act apply to the exclusively wholesale business of any dealer, nor do general dealers come under the provisions of this Act so far as it relates to the keeping for sale and sale of proprietary medicines in original packages, and such simple household remedies as may from time to time be approved for such sale by the State Board of Pharmacy; nor does this Act apply to registered or copy-righted proprietary medicines registered in the United States Patent Office, nor to the manufacture of proprietary remedies or the sale of the same in original packages, by persons other than pharmacists; provided, further, that any person of good moral character, over twenty-one years of age, who conducts a retail business at a place more than five miles from a drug store, employing a registered pharmacist, may procure a license from the Board of Pharmacy upon application and payment to said Board of a fee of Three Dollars (\$3.00) annually which shall permit such retailer to keep for sale and sell in original packages, in addition to the simple household remedies hereinbefore referred to, such other emergency medicines and poisons as may be deemed necessary and in the public interests, and which have been designated by the State Board of Pharmacy as saleable under such license. The license hereinbefore referred to shall

be for a period of one year, commencing on July 1st, and ending on June 30th, following the date of the application, and shall apply to the location for which the same is issued, and shall be posted in a conspicuous place at such location, and upon satisfactory proof to the State Board of Pharmacy of any violation of any law of the State of North Dakota, by such licensee in or upon said premises, it shall be the duty of the State Board to revoke same. The State Board of Pharmacy may likewise from time to time add to or eliminate from the approved list of simple household remedies, and he may add to and eliminate from the approved list of emergency medicines and poisons, saleable under the license aforesaid, and notice of such alterations shall be given by publication in such manner as said Board may deem proper.

§ 2. That Section 500 of the Compiled Laws of North Dakota for the year of 1913 be amended and re-enacted to read as follows:

§ 500. PENALTY.] Any proprietor of a pharmacy, who not being a registered pharmacist, shall fail or neglect to place in charge of such pharmacy a registered pharmacist, or any such proprietor who shall by himself, or any other person, permit the compounding or dispensing of prescriptions, or the vending of drugs, medicines or poisons, in his store or place of business, except by or in the presence and under the strict supervision of a registered pharmacist, or any person not being a registered pharmacist, who shall take charge of or act as manager of such pharmacy, or store, or who, not being a registered pharmacist, retails, compounds, or dispenses drugs, medicines or poisons, excepting pursuant to Section 499 as amended, shall be guilty of a misdemeanor.

§ 3. That Section 503 of the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 503. SAME.] Every person who shall sell, furnish or deliver to another at retail, any aconite, belladonna, colchicum, conium, formaldehyde, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, digitalis and their pharmaceutical preparations, croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid, and oxalic acid, shall before delivering the same, affix to the bottle, box, vessel or package containing the same, a label showing the name of the contents, the word "Poison", and his name and place of business; provided, however, that any store-keeper may sell, in original, unbroken packages, fungicides and insecticides, including formaldehyde and Paris green, generally used for agricultural purposes which have been designated by the State Board of Pharmacy.

Approved March 10, 1931.



# PHYSICIANS AND SURGEONS

## CHAPTER 213

(H. B. No. 67—Strutz.)

### REGISTRATION PHYSICIANS AND SURGEONS

An Act providing for the annual registration of physicians and surgeons.

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

§ 1. ANNUAL REGISTRATION FEE.] After the taking effect of this Act and on or before August 1st, A. D. 1931, and on or before January 1st of each year thereafter, every practitioner of medicine and surgery now or hereafter legally licensed to engage in such practice within this state, shall file with the Secretary-Treasurer of the Board of Medical Examiners a Registration Statement upon blanks prepared and provided by said Board, and shall pay to said Secretary-Treasurer, an annual Registration fee as hereinafter provided.

§ 2. FEES REQUIRED. Every practitioner of medicine and surgery, who resides in this State, shall pay, after the taking effect of this Act and on or before August 1st, A. D. 1931, and annually thereafter on or before January 1st, a Registration fee of \$5.00; Every practitioner of medicine and surgery, who resides without this state, and, who has been licensed to practice in this state, shall pay, on or before August 1st, A. D. 1931, and annually thereafter on or before January 1st, a Registration fee of \$2.00; Provided, however, that the said Board of Medical Examiners are hereby authorized and empowered to remit pro rata to every practitioner of medicine and surgery, who has duly paid the Registration fee herein required, a part or percentage of said Registration fee, when deemed by such Board advisable, upon its order made and filed with the Secretary-Treasurer of said Board.

§ 3. BOARD OF MEDICAL EXAMINERS TO MAKE RULES AND REGULATIONS.] The Board of Medical Examiners shall make rules and regulations governing, and provide form blanks for the making and the filing of the Registration statements herein required, and shall keep a register of every practitioner of medicine and surgery in this state who has complied with the provisions of this Act.

§ 4. PRACTITIONERS NOT REGISTERED PROHIBITED FROM PRACTICING.] No practitioner of medicine shall engage in such practice in this state until the registration fee hereinbefore required, has been paid. The violation of this section by any practitioner of medicine shall be cause for his suspension from such practice and the revocation of his license by the Board of Medical Examiners.

§ 5. ISSUING ANNUAL LICENSES.] The Secretary-Treasurer of the Board of Medical Examiners, upon payment of the fee required, shall issue a certificate of annual license, which shall be posted in a conspicuous place in the office of the holder thereof.

§ 6. PAYMENT OF DELINQUENT REGISTRATION FEES: REINSTATEMENT.] Any practitioner of medicine and surgery who has been duly licensed to practice in this state by the Board of Medical Examiners, and who is subject to suspension from practice and the revocation of his license by reason of his failure to pay the license fee as herein required, may be reinstated, his suspension revoked and his license renewed by his paying to the said Secretary-Treasurer, the amount of such registration fee in which he is then in default, and upon payment of such fee, not to exceed Nine Dollars (\$9.00) shall be again licensed and registered for the practice of medicine and surgery within this state. Practitioners newly licensed to practice by the Board of Medical Examiners may pay the registration fee required pro rata for the part of the year remaining after the issuance of the license.

§ 7. COVERAGE OF FEES.] All fees received under the provisions of this Act shall be paid to and held by the said Secretary-Treasurer and shall be subject to disbursement by said Board of Medical Examiners in performing their duties as provided by law.

§ 8. AN ANNUAL REPORT.] The Board of Medical Examiners shall annually, on January 1st, file with the Governor of this State a report of all fees received and disbursements made and a list of all the practitioners of medicine and surgery who have complied with the provisions of this Act, together with their respective addresses.

Approved March 4, 1931.

## POTATOES

### CHAPTER 214

(S. B. No. 69—Brunsdale and Brostuen.)

#### INSPECTION, GRADING, ETC., POTATOES AND OTHER PRODUCE

An Act to establish a standardized and uniform system of grading, labeling and inspecting potatoes and certain other produce, and to regulate the sale and distribution of potatoes in closed containers, and making an appropriation therefor.

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

§ 1. STATE SEED COMMISSIONER TO ESTABLISH GRADE INSPECTION SERVICE AND APPOINT NECESSARY AGENTS AND INSPECTORS.] In order to develop and protect the industries in this State engaged in the growing and marketing of potatoes and other produce

and to conserve and promote the welfare of the citizens of the State, the State Seed Commissioner, hereinafter referred to as the "Commissioner", is hereby authorized and empowered to establish potato and other produce grades and inspection service for the purpose of making inspections on, and otherwise providing for proper handling and marketing of the agricultural commodities defined in Section 2 of this Act, under the classifications of "Potatoes" and "Other Produce"; to appoint a Chief Inspector and such other agents, inspectors, assistants and clerical aids as the Commissioner finds necessary to assist, represent and act for him in enforcing and otherwise carrying out the provisions of this act, and to fix salaries of said employees and provide for operating expenses.

§ 2. DEFINITION OF TERMS.] In this Act, unless otherwise specified or implied, the following terms shall be construed to have a meaning as respectively ascribed to them in this section, viz:

(a) The term "Potatoes" shall mean and include what is commonly called and known as white or Irish potatoes.

(b) The term "Other Produce" shall mean and include such natural products of the farm, garden and orchard, exclusive of grain, true seeds, livestock and livestock products.

(c) The term "Closed Container", or its plural form, shall mean any container which shall be either sewed, tied, sealed, glued, nailed or otherwise closed in a practical or secure way for handling.

(d) The term "person" shall be construed to mean both the singular and plural, as the case requires, and shall mean and include individuals, co-partnerships, companies, societies, association, firms or corporations.

(3) The term "Agent" or "Agents", when used to indicate or refer to the Commissioner's agent or agents, shall mean and include the Commissioner's deputies, inspectors, representatives, agents, or other assistants as the case requires.

(f) The term "Label" and its various grammatical forms, when used as a noun, shall mean and include any tag, label, brand, or device attached to, or written, stamped, printed or stenciled on any container and carrying a term or terms setting forth the grade, condition, quality, weight, variety or class of the potatoes or other produce therein contained, and when used as a verb shall mean the Act or the fact of the use of the aforesaid labeling items and methods in connection with potatoes or other produce, and when used as an adjective, its descriptive meaning shall be interpreted from its use and meaning as a noun and verb as here prescribed.

§ 3. NORTH DAKOTA GRADES FOR POTATOES AND OTHER PRODUCE.] The following grades for potatoes are hereby designated as official and standard grades for North Dakota; namely, "U. S.

Fancy", "U. S. No. 1", "U. S. No. 2", "North Dakota Certified Seed", "North Dakota Extra No. 1", and "Unclassified."

The U. S. Grades shall conform in all respects to the requirements and standards specified by the U. S. Department of Agriculture, but the grade names may be used with appropriate size designations when specified in regulations by the Commissioner who shall be guided by the regulations and recommendations of the U. S. Department of Agriculture: The U. S. grades and standards herein designated shall be subject to change only, provided the said U. S. Department promulgates any new and definite changes, and such changes shall thereupon be adopted by the Commissioner for use in North Dakota.

The "North Dakota Certified Seed" grade shall conform in all respects to the provisions of the seed laws of this state and the regulations made thereunder, and shall be labeled in accordance therewith.

The "North Dakota Extra No. 1" grade shall be one which growers, shippers, dealers and the Commissioner and his agents may use on officially inspected lots and which shall consist of potatoes of similar varietal characteristics, which are packed in new sacks or other new containers, are mature, are at least fairly bright to bright, average medium or larger in size, are free from dirt or other foreign matter, contain no soft rot, and which otherwise conform to U. S. Grade No. 1 except that grade defects other than mentioned herein shall not exceed approximately one-half of the tolerance permitted in the said U. S. Grade.

"Unclassified" lots shall include all potatoes not meeting the requirements of any of the foregoing grades. It shall be optional, however, to use the "Unclassified" labeling on any lot of potatoes.

For "Other Produce" the grades which may have been heretofore or shall be hereafter fixed by the Department of Agriculture of the United States, for such produce, are hereby adopted and designated as the official standard grades for North Dakota. Inspections on incoming produce may be made and certificates issued on the basis of other applicable state grades or in accordance with sales contracts.

§ 4. LABELING OF POTATOES IN CLOSED CONTAINERS.] Potatoes grown in North Dakota, when packed for carload shipments or offered for sale or consignment in carload lots, shall be labeled with one of the grade designations specified in Section 3 of this Act. Potatoes grown in North Dakota, when packed for truck load shipments or offered for sale or consignment in truck load lots other than by the producer or grower, shall also be labeled with one of the grade designations specified in Section 3 of this Act.

Every closed container containing potatoes grown in the State of North Dakota and sold, offered or exposed for sale or consignment in carload lots; also closed containers containing potatoes grown

in the State of North Dakota and sold, offered or exposed for sale in truck load lots by a person other than the grower thereof, shall bear upon the outside either by brand, tag, or label, in plain letters and figures, the grade of the potatoes therein contained, as specified in this Act, the minimum weight thereof when packed and the variety or class name of said potatoes.

The labeling prescribed in this Act may be accompanied by additional marks or brands which are not inconsistent with or in the same location more conspicuous than, or which do not in any way obscure the labeling described in this Act. The Commissioner shall, by regulation, prescribe the general location of the labeling on the container and the minimum size of the letters and figures used in the labeling of the potatoes as herein provided.

§ 5. COMMISSIONER'S PRIVILEGE OF EXAMINATION.] It shall be the duty and privilege of the Commissioner and his agents to make sufficient investigations and grade inspections to determine whether the provisions of this Act are properly complied with.

The Commissioner and his agents shall have the authority to enter and have free access upon and into any private or public premises or structures and the vehicles of any public or private carriers, including sealed or unsealed freight cars, to make examinations or inspections of any potatoes or other produce that is being graded, handled, packed, stored, offered for sale or consignment, exposed for sale, shipped or delivered for shipment, whether the said commodities are upon the premises or in possession or custody of any person other than the shipper or owner thereof and shall have the privilege to take samples of the aforesaid commodities of sufficient quantity for testing or inspecting.

It shall be the duty of any and all persons involved in any way with the handling, transportation, storage, buying or selling of potatoes and other produce to cooperate with the Commissioner and his agents and render all possible assistance to aid them in the carrying out and enforcement of the provisions of this Act, and the regulation duly made thereunder.

§ 6. COMMISSIONER'S CERTIFICATE.] The official certificates of inspection, when signed by the Commissioner or his authorized agent, shall be prima facie evidence that the potatoes or other produce therein described are of the grade, quality or condition indicated on the certificate at the time inspection was made.

§ 7. FEES AND OTHER CHARGES FOR GRADE INSPECTION.] The Commissioner shall by regulation fix the fees that shall be charged for making grade inspections, and said fees shall be uniform throughout the state for periods of time as shall be specified, and the maximum fee per carload or truck load or any other lot unit not in excess of a standard freight carlot quantity, is hereby set at \$4.00 for potatoes and \$5.00 for other produce. Any person soliciting an

inspection or inspections at points other than those at which inspectors are located, or at which itinerant inspectors may be at the time inspection is requested, may obtain inspection service on payment of necessary traveling expenses, in addition to the regular inspection fee. The Commissioner shall have authority to collect all fees and charges.

§ 8. DESIGNATING OFFICIAL INSPECTION POINTS.] The Commissioner may designate by regulation, as official potato shipment inspection points or areas any point or stations, or all points or stations within a county or specified subdivision thereof, at or in which the majority of the potato shippers at a public hearing shall declare themselves in favor thereof; provided, however, that upon written request for a hearing made by a bona fide shipper of potatoes, the Commissioner shall cause public notice for said hearing to be published once during the week preceding the date of such hearing, in a newspaper of general circulation in the area affected, or in the official county newspaper if there shall be a county-wide hearing. The Commissioner or his authorized agent shall witness such hearing and verify as to proper procedure, attendance and voting at said hearing.

When such points or specified areas are so designated, proper notice shall be filed with the railway companies or their agents at each point so affected, at which point or points all shipments of potatoes shall be officially inspected from and after date as published by the Commissioner. No person shall ship or offer for shipment, and no railway company's agent shall accept for shipment, after said published date, any carload or lot of potatoes at or from any point or area which has been properly designated as an official potato shipment inspection point, unless said carload or lot of potatoes has been officially inspected and found to be correctly labeled as herein provided, or unless inspection is waived by the Commissioner or his agent, or unless the potatoes in a carload or other lot are labeled "Unclassified". After such inspection, and provided the official inspector finds that such potatoes are properly labeled according to the provisions of this Act, said inspector shall furnish to the shipper or owner of the potatoes, or file with the railway company's agent at billing point, a signed memorandum indicating that the shipment of potatoes is correctly labeled. The owner and the consignor or shipper of the potatoes shall be held responsible for the payment of the inspection fees when they are not otherwise paid.

At all points not designated by the Commissioner as official potato shipment inspection points or areas, and railway companies or their agents have not been notified as provided in this section, inspections may be made on application of any person as provided in Section 7, of this Act, or at the Commissioner's option for regulatory purposes, but shipments may be made when potatoes have not been officially inspected.

The Commissioner may, in his descretion, refrain from designating certain points as official potato shipment inspection points if the volume of shipments for inspection will not warrant the expense of maintaining inspection at any such points.

§ 9. MISBRANDING OF POTATOES OR OTHER PRODUCE.] It shall be unlawful for any person either for himself or while acting as agent or servant for any other person to sell, consign for sale, offer or expose for sale, have in possession or storage with intent for sale, or to deliver within the State of North Dakota or to convey or cause to be conveyed out of the State of North Dakota, any potatoes or other produce which are mislabeled within the meaning of this Act or the regulations thereunder, or which are falsely labeled, represented or advertised in any respect, whether they are in closed containers or in open containers or in bulk and regardless of the quantity. In the event of the shipment into this state from any point outside thereof of any potatoes, it shall be the duty of the purchaser, the vendor and the person receiving such potatoes to have the same labeled in accordance with and conforming to the requirements of this Act for potatoes grown or originating in North Dakota; provided, however, that certain standardized grades and labeling of potatoes in use elsewhere may be permitted by the Commissioner in connection with shipments of potatoes into this state from any point outside thereof, in lieu of the labeling provided for in this Act.

§ 10. POWER OF SEIZURE.] The Commissioner and his agents are hereby given authority to seize and hold any potatoes or other produce, which are wrongly labeled, branded, marked or tagged as to grade, quality, condition, or any other respect, according to this Act, until such potatoes or other produce are so graded or reconditioned that they meet the requirements of the grade, or the labeling with which they are marked, or until such potatoes or other produce are labeled or marked with the grade or essential details as indicated by the official report or certificate of the Commissioner or his agent.

The Commissioner and his agents are hereby vindicated of any guilt or charge for loss, damage, or any other costs due to seizure or litigation in which they are involved as complainant, arbiter, respondent, inspector or investigator when acting in accordance with the provisions of this Act, and the regulations duly made thereunder.

§ 11. REFUSAL OF SHIPMENT.] Refusal to accept on agreed terms any shipment of potatoes or other produce which has been contracted for, unless such refusal is based upon the showing of an official inspection certificate secured with reasonable promptness after the receipt of such shipment indicating that the kind, grade, condition or quality of the potatoes or other produce is other than that purchased or ordered, or unless both parties to the transaction agree to waive official inspection, shall constitute a violation of this Act.

§ 12. PENALTY FOR VIOLATION.] Any person who violates any of the provisions of, or who fails or refuses to comply with any of the requirements of this Act, or of the regulations duly made thereunder, or who wilfully interferes with the Commissioner or any of his agents in the execution or on account of the execution of his or their duties under this Act, shall on conviction be fined not more than \$100.00 and cost of prosecution for the first offense, nor more than \$500.00 and costs of prosecution for each subsequent offense.

§ 13. COMMISSIONER'S AUTHORITY TO MAKE RULES AND REGULATIONS.] It shall be the duty of the Commissioner, and he shall have the authority to from time to time adopt, publish, and amend uniform rules, regulations and definitions not inconsistent with the provisions of this Act, and to alter or to suspend such rules, regulations, and definitions from time to time as he finds such actions necessary. Such rules, regulations, and definitions of terms and conditions shall be approved by the Attorney General of the State as to form and legality and shall be filed in the office of the Commissioner, and shall be published once in a newspaper of general circulation, to be designated by the Commissioner, in the city where the Commissioner's main office is located, and such rules, regulations, and definitions shall have the force and effect of law. An affidavit of such publication, setting forth the rules, regulations, definitions or amendments thereto as published, shall be made by the publisher of such newspaper or by his agent or the newspaper manager, and shall be filed in the office of the Commissioner. Such affidavits, or copies thereof, certified by the Commissioner, shall be prima facie evidence of the facts therein contained and of the due adoption and publication of such rules, regulations, definitions or amendments.

§ 14. ENFORCEMENT AND PROSECUTION.] The Commissioner shall be charged with the enforcement of the provisions of this Act and of the regulations duly made thereunder. Upon complaint made by the Commissioner alleging violation of this Act, or of the regulations duly made thereunder, it shall be the duty of the Attorney General and of the State's Attorney in the county where the case arises to cause appropriate legal proceedings to be commenced and prosecuted in the proper courts without delay for the enforcement of the penalties as provided in this Act; Provided, however, that no prosecution under this Act shall be instituted except in the manner following: When the Commissioner is of the opinion that a violation of this Act or the regulations duly made thereunder exists, he shall give notice to the person involved, designating a time and place for a hearing. Said hearing shall be private and the person so involved shall have the right to introduce evidence in person, by agent or attorney. If, after said hearing, or without such hearing in the event said person fails or refuses to appear in any manner, the Commissioner decides that the evidence warrants prosecution, he shall proceed as herein provided.



The Commissioner and his agents are hereby authorized and empowered to administer oaths and to take testimony for any purpose relating to the carrying out of the provisions of this Act.

§ 15. COOPERATIVE FUNCTIONS.] The Commissioner may and he is hereby authorized to cooperate with the United States Department of Agriculture or any bureau or division thereof, and with similar state inspection service departments in the United States and with any person to the intent and purpose that the grade inspection service in this State and any or all of the grade certificates issued on North Dakota potatoes or other produce shall be officially recognized and accepted elsewhere in the United States outside of North Dakota, so as to protect and promote the interests of any and all persons having an interest in the potatoes or other produce grown or handled in this state, and to provide for any necessary joint arrangements therefor.

§ 16. EFFECT OF PARTIAL INVALIDITY.] If any provision in any clause or section of this Act, or the application thereof to any person or circumstances, is held invalid, the validity of the remaining portions of the clause or section and of the applications of such provisions to other persons or circumstances shall not be affected thereby.

§ 17. APPROPRIATION.] For the purposes of carrying out and administering the provisions of this Act and the regulations duly made thereunder, and to pay the salaries and wages each month of the appointees and employees under this Act, and other expenses and costs, there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of \$10,000.00, or as much thereof as may be necessary, for the biennial period beginning July 1, A. D. 1931. This appropriation shall be held and retained in the custody of the State Treasurer and placed in and to the credit of the Seed Department Fund, and shall be disbursed upon order of the Commissioner by the use of itemized and duly verified vouchers and with the approval of the Board of Administration.

§ 18. DISPOSITION OF FEES AND OTHER COLLECTIONS.] All moneys arising from the collection of fees and other charges under the provisions of this Act shall be placed by the Commissioner, with the State Treasurer and be credited to the Seed Department revolving fund, and shall be disbursed upon order of the Commissioner and with the approval of the Board of Administration.

§ 19. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 10, 1931.

## CHAPTER 215

(S. B. No. 68—Brunsdale and Brostuen.)

## REGULATION SALE OF POTATOES

An Act licensing, bonding, regulating and defining wholesale potato dealers, defining certain duties and conferring certain powers upon the State Seed Commissioner in connection therewith and prescribing penalties for violation thereof.

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

§ 1. WHOLESALE POTATO DEALER DEFINED.] For the purpose of this Act any person who shall buy or sell or contract to buy or sell or who shall handle in wholesale lots for the purpose of resale, or who shall handle on account of or as an agent for another, any potatoes as defined herein, shall be deemed a wholesale potato dealer.

§ 2. DEFINITION OF TERMS.] In this Act, unless otherwise specified:

(a) The term "Potatoes" shall mean and include what is commonly classed as white or Irish Potatoes.

(b) The term "Person" shall mean an individual, firm, co-partnership, corporation, company, society, or association, and shall be construed to imply both the singular and the plural as the case requires.

§ 3. LICENSE REQUIRED, AND LICENSING OFFICER DESIGNATED.] No person shall engage in or purport to be engaged in the business of a wholesale potato dealer, or advertise as such, unless he shall be licensed to carry on such business by the State Seed Commissioner, hereinafter referred to as the "Commissioner".

§ 4. CONDITIONS FOR LICENSE.] License to engage in the business of a wholesale potato dealer within the State of North Dakota shall be issued by the Commissioner to such reputable persons as shall apply therefor, pay the prescribed fee and comply with the conditions herein specified, to-wit:

(a) The application shall be made to the Commissioner in writing, accompanied by the prescribed fee and under oath, and shall set forth the place or places where the applicant intends to carry on the business for which the license is desired, the estimated amount of business to be done monthly, the amount of business done the preceding year, if any, the full name of the persons constituting the firm, in case the applicant is a co-partnership, the name of the officers of the corporation and where incorporated if a corporation, a financial statement showing the value and character in a general way of the assets and the amount of liabilities of the applicant, and statements showing eligibility and standing for a similar license in other states in which he may have operated or is now operating.

(b) The applicant shall execute and file with the Commissioner a bond issued in favor of the Commissioner with sureties to be approved by the Commissioner, the amount and form thereof to be fixed by the Commissioner, conditioned for the faithful performance of his duties as a wholesale potato dealer, for the observance of all laws relating to the carrying on of the business of a wholesale potato dealer, for the payment when due of the purchase price of potatoes purchased by him, for the prompt settlement and payment of all claims and charges due the State of North Dakota for services rendered or otherwise, for the prompt reporting of sales, to all persons consigning potatoes to the licensee for sale on commission and the prompt payment to the persons entitled thereto of the proceeds of such sales, less lawful charges, disbursements and commissions. Such bond shall cover all wholesale potato business transacted in whole or in part within the State of North Dakota, and the license, or a certified copy thereof, shall be kept posted in the office of the licensee at each place within the State where he transacts business. Such bond shall only be liable for acts by such dealer while the license issued as provided by this Act to such dealer is in force, and the Surety may at any time terminate its liability under such bond by giving the Commissioner notice in writing of its desire to terminate its liability. Such notice shall specify that the Surety desires to terminate its liability under said bond and such liability shall be terminated thirty days after the receipt of such notice by the Commissioner. The Commissioner shall notify immediately the licensee to furnish a new bond, and if the licensee shall fail to furnish bond satisfactory to the Commissioner, the Commissioner shall suspend or cancel the license of such licensee. In no event shall the Surety be liable for any acts performed by the licensee after the expiration of the aforesaid thirty day period, but the Surety shall be liable as provided by the terms of the said bond for any acts performed by such licensee prior to the effective date of such cancellation. The fee for each license shall be \$5.00 and for each certified copy thereof it shall be \$1.00. All licenses shall expire on June 30 of each year.

(c) Whenever the licensee shall sell, dispose of or discontinue his business during the period covered by his license, he shall at the time such action is taken, notify the Commissioner in writing and shall upon demand produce before the Commissioner a full statement of all assets and liabilities as of the date of transfer or discontinuance of said business.

(d) To safeguard the public and acquaint persons with the fact that those soliciting potatoes from farm to farm or place to place within this State are working as agents of a licensed dealer, the principal shall be required to secure an identification card for each and every one of his agents and for an individual licensee while so

operating, from the Commissioner. Said agents of a licensee and an individual licensee must have and carry such identification card with them before and while soliciting or transacting potato business for the licensee. The fee for each such identification card shall be one dollar.

(e) The applicant shall file with the Commissioner a schedule of his commissions and charges for services in connection with potatoes handled on account of or as agent for another.

(f) It shall be the duty of the licensee to keep accurate accounts and records of all transactions as a wholesale potato dealer and retain them, subject to the examination of the Commissioner, for a period of eighteen months after their respective events.

(g) The refusal, cancellation or suspension of a license to operate as a wholesale potato dealer in another state may, at the discretion of the Commissioner, constitute grounds for the same respective actions in this State.

(h) In the event any individual or person was a responsible party under a license to operate as a wholesaie potato dealer in this or any other state when such license was suspended or cancelled, and the said individual or person is also a responsible party to a licensee or an applicant for a license, such condition may at the discretion of the Commissioner, constitute grounds for refusal, suspension or cancellation of a license while the aforesaid cancellation or suspension is effective.

(i) The ineligibility of an individual to act as an agent for a potato dealer in another state and the conditions in subsections (g) and (h) of this section applying to a licensee or an applicant for a license may in the discretion of the Commissioner, be made disqualifications to the eligibility of an individual to act as an authorized agent for a licensee.

§ 5. REQUIRING ADDITIONAL BONDS.] The Commissioner, whenever he is of the opinion that any bond theretofore given by a licensee is inadequate for the proper protection of the public, may require the licensee to give additional bonds in such amounts as from time to time the Commissioner may determine and direct with sureties to be approved by the Commissioner and conditioned as heretofore set forth. For the purpose of fixing or changing the amount of such bonds, the Commissioner may require from a licensee verified statements of his business, and if the licensee fails to furnish such information or to furnish a new bond when directed by the Commissioner so to do, the Commissioner may forthwith suspend and after ten days' notice and opportunity to be heard revoke his license.

§ 6. DAMAGE CLAIMS AGAINST BONDS.] Any person claiming himself to be damaged by any breach of the conditions of a bond given by a licensee as herein provided, may enter complaint thereof to the Commissioner, which complaint shall be a verified statement of the fact or facts constituting said complaint. Upon filing such complaint in the manner herein provided, the Commissioner shall investigate the charges made, and at his discretion order a hearing before himself or his duly authorized agent, giving the person complained of, notice of the filing of such complaint and the time and place of such hearing. At the conclusion of said hearing the Commissioner or his agent conducting the hearing, shall report his findings and render his conclusion upon the matter complained of, to the complainant and respondent in each case, who shall have fifteen days following in which to make effective and satisfy such conclusions. If such settlement is not effected within the time aforesaid, either party, if aggrieved by any condition of the bond may, upon first obtaining the approval of the Commissioner, commence and maintain an action against the principal and sureties on the bond of the party complained of as in any civil action, provided no action against the bondsmen of a licensee shall in any instance be maintained without the written approval of the Commissioner, which shall be attached to and made a part of the original complaint in such action. Upon commencing such action, a copy thereof shall be filed in the office of the Commissioner. The record of the hearing before the Commissioner or his agent, when properly certified to, shall be competent evidence in any court having jurisdiction. If such licensee has become liable to more than one person by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay the entire liability to all persons entitled to the protection of the bond, the penalty of the bond as against the sureties shall be apportioned among the several claimants. In all cases where the liability of the licensee exceeds the amount of his bond, the Commissioner shall commence an action for the recovery of the full amount of said bond and when recovered such amount shall be deposited with the Commissioner who shall in the same action, subject to the approval of the court, pass upon and allow or disallow all claims which may be presented to him, within sixty days after recovery of the bond, for payment or apportioned thereunder and, to effect the purposes herein, may employ counsel, the expenses thereof to be paid out of the amount recovered on such bond.

§ 7. REJECTIONS OF POTATO SHIPMENTS.] Whenever potatoes are ready for sale, or are on their way to market, the owner thereof or the conveyor or the prospective buyer or any other interested party may call for and shall be entitled to inspection of said potatoes and to an inspection certificate as otherwise provided for by law.

Whenever potatoes are shipped to or received by a wholesale potato dealer for handling, purchase or sale in this state and said dealer at wholesale finds the same to be in a spoiled, damaged, unmarketable or unsatisfactory condition, or mislabeled or misrepresented in any way, unless both parties shall waive inspection before sale or other disposition thereof, he shall cause the same to be examined by an inspector assigned by the Commissioner for that purpose, and said inspector shall execute and deliver a certificate to the applicant thereof stating the day and the time and place of such inspection and the condition of such potatoes, who shall mail or deliver a copy of such certificate to the shipper thereof.

§ 8. CONSIGNED POTATOES.] Whenever any wholesale dealer of potatoes to whom potatoes have been shipped or consigned for sale on a commission basis or on consignment or under any circumstances wherein the title to said potatoes remains with the shipper, has received the same, he shall within a reasonable time thereafter make a written report to the shipper, which report shall include the exact time of arrival, quantity, quality and price per unit of the potatoes, and at the same time he shall pay the shipper the net amount due him.

§ 9. UNSATISFACTORY SALES REPORTS.] Whenever a shipper after demand therefor, shall have received no remittance or report of sale of potatoes, or shall be dissatisfied with the remittance, sale or report thereof, he may complain in writing to the Commissioner, who shall investigate the matter complained of.

§ 10. COMMISSIONER'S AUTHORITY TO CONDUCT HEARINGS AND CANCEL LICENSES.] The Commissioner is authorized to receive complaints against any person dealing in, shipping, transporting, storing or selling potatoes, and shall have authority to make any and all necessary investigations relative to the handling of or storing, shipping, or dealing in potatoes at wholesale, and he and his agents shall at all times have access to all buildings, yards, warehouses, storage and transportation facilities, and railway cars, in which any potatoes are kept, stored, handled or transported and take any samples which are necessary. For the purpose of enforcing the provisions of this Act, the Commissioner shall have the authority, upon complaint being filed with him for any alleged violation of the provisions of this Act, or the regulations issued thereunder, or upon information furnished by an agent of the Commissioner or by any other person, to forthwith suspend and upon ten days' notice and opportunity to be heard, revoke and cancel any license or agent's identification card issued by him, and the Commissioner shall have the power to revoke or cancel the license of any dealer or the identification card of any dealer's agent, who shall violate any of the provisions of this Act or the regulations made thereunder. He shall have and is hereby granted full authority to issue

subpoenas requiring the attendance of witnesses before him or his agent, of books, papers, and other documents, articles or instruments, and compel the disclosure by such witnesses of all facts known to them relative to the matter under investigation, and he or his duly authorized agent shall have full authority to administer oaths, and to take testimony for the purposes of this Act; and the Commissioner or his agent shall thereafter give the complainant a written report of the investigation. Such report shall be prima facie evidence of the matters therein contained. All parties disobeying the orders or subpoenas of the Commissioner or his duly authorized agents shall be guilty of contempt as in proceedings in district courts of the State and may be punished in like manner.

§ 11. COMMISSIONER'S AUTHORITY TO MAKE RULES AND REGULATIONS.] The Commissioner shall have power and it shall be his duty from time to time to make and publish and amend uniform rules and regulations, not inconsistent with the provisions of this Act, for carrying out and enforcing the provisions of this Act, and governing the rates charged by, and the buying, selling, advertising and trading practices of potato dealers at wholesale, and to make and publish necessary definitions of terms and conditions relative to this Act, and to alter or suspend such rules, regulations and definitions from time to time as he finds such actions necessary. Such rules, regulations and definitions of terms and conditions shall be approved by the Attorney General as to form and legality, and shall be filed in the office of the Commissioner, and published once in a newspaper of general circulation, designated by the Commissioner, in the city where the Commissioner's main office is located, and such rules and regulations shall have the force and effect of law. An affidavit of such publication, setting forth the contents of the same, made by the publisher or manager of such newspaper, shall be kept on file in the office of the Commissioner. Such affidavits, or copies thereof, certified by the Commissioner, shall be prima facie evidence of the facts therein contained, and of the due adoption and publication of such rules and regulations.

§ 12. COOPERATION WITH FEDERAL AND OTHER STATE AUTHORITIES.] The Commissioner may co-operate with the United States Department of Agriculture and with other Federal authorities, and, with the State and municipal authorities of this and other states, and do and perform such acts and things as may be necessary and proper in carrying out the purposes of this Act.

§ 13. VIOLATIONS DEFINED.] Any person subject to the provisions of this Act who shall:

(a) Make any false statement or report as to the grade, condition, markings, quality or quantity of potatoes received or delivered, or act in any manner so as to deceive the consignor or purchaser thereof; or

(b) Refuse to accept, on agreed terms, any shipment contracted for by him, unless such refusal is based upon the showing of a state inspection certificate secured with reasonable promptness after the receipt of such shipment showing that the kind or quality of potatoes is other than that purchased or ordered by him; or

(c) Fail to account for potatoes or to make settlement therefore within the time herein limited; or who shall violate or fail to comply with the terms or conditions of any contract entered into by him for the purchase or sale of potatoes; or

(d) Purchase for his own account any potatoes received on consignment, either directly or indirectly, without the consent of the consignor; or

(e) Issue any false or misleading market quotations, or who shall cancel any quotations during the period advertised by him; or

(f) Make or collect any commission or charge in excess of that shown in his schedule which he may have filed with the Commissioner; or

(g) Increase the sales charges on potatoes shipped to him by means of "dummy" or fictitious sales; or

(h) Fail to keep accurate records and financial accounts of all transactions as a wholesale potato dealer; or

(i) Receive potatoes from foreign states or countries for sale or resale, either within or without the State, and give the purchaser the impression through any method of advertising or description that the said potatoes are of other than true origin; or

(j) Make or collect any commission or charge in excess of that shown in his schedule filed with the Commissioner; or

(k) Violate any of the provisions of this Act or any rule or regulation made or published thereunder by the Commissioner, shall be guilty of a misdemeanor, and his license may be forthwith suspended, revoked or cancelled by the Commissioner upon ten days' notice and opportunity to be heard; but upon conviction of such offense, or upon conviction of any Federal court for violation of the Federal statutes relative to the fraudulent use of the mails, or of other criminal acts pertaining to the conduct of his business, it shall be the duty of the Commissioner forthwith to revoke and cancel the license of the person so convicted.

§ 14. ENFORCEMENT AND PROSECUTION.] The Commissioner shall be charged with the enforcement of the provisions of this Act and of the rules and regulations made and published thereunder. Upon complaint made by the Commissioner or any other person, it



shall be the duty of the Attorney General and of the State's Attorney in the county where the case arises, to prosecute all violations of this Act or of the Rules and regulations made and published thereunder.

§ 15. EFFECT OF PARTIAL INVALIDITY.] If any provisions in a clause or section of this Act, or the application thereof to any person or circumstances, is held invalid, the validity of the remaining portions of the clause or section and of the Act, and of the application of such provisions to other persons or circumstances shall not be affected thereby.

§ 16. DISPOSITION OF FEES AND OTHER COLLECTIONS.] All monies arising from the collection of fees and other charges under the provisions of this Act shall be placed by the Commissioner, with the State Treasurer and be credited to the Seed Department revolving fund, and shall be disbursed upon order of the Commissioner and with the approval of the Board of Administration.

§ 17. SUPERSEDCENCE OF THIS ACT.] All Acts or parts of Acts in conflict with the provisions of this Act are superseded by the provisions hereof.

Approved March 4, 1931.

## PROCEDURE

### CHAPTER 216

(S. B. No. 75—Sathre.)

#### ACTIONS BY AND AGAINST PARTNERSHIPS AND ASSOCIATIONS

An Act to amend and re-enact Chapter 193 of the Laws of North Dakota for the year 1929.

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

§ 1. AMENDMENT.] That Chapter 193 of the Laws of North Dakota for the year 1929, be, and the same is, hereby amended and re-enacted to read as follows:

§ 1. When two or more persons have heretofore done or transacted, or are doing or transacting, or shall hereafter do or transact business as partners or associates under a common name, whether such name comprises the name of such persons or not, they may sue and be sued by such common name and in case such partners or associates are defendants, the Summons may be served on one or more of them; provided, that, if the business of such partners or associates is in charge of a manager or agent, the Summons must be served on such manager or agent, but in case the Sheriff of the County in which the business of such persons is

done or transacted shall make return that no such member, manager, or agent can be found in said County, then such service may be made by leaving a copy of the Summons in any office of such partners or associates with the person in charge of such office. The judgment in any such action shall bind the joint property of all the members or associates of such firm or association the same as though all of them had been named as defendants.

Approved March 9, 1931.

CHAPTER 217  
(S. B. No. 8—Cain.)

CONCILIATION OF CONTROVERSIES

An Act providing for the conciliation of controversies at option of the moving party, and repealing Section 9192a6 of the 1925 Supplement to the Compiled Laws of 1913 and Chapter 187 of the Session Laws of 1929, and all other acts and parts of acts in conflict herewith.

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

§ 1. The moving party may file in court a certificate of a conciliator showing that an attempt has been made to effect a settlement of the claim and that such attempt has failed. Provided, however, that any person desiring to have any civil claim not specified as an exception herein submitted to a conciliator, may prior to suit thereon request one of the conciliators for the county in which he resides, or for the county in which the person complained against resides, to act as a conciliator. Thereupon such conciliator, if qualified and able to act, shall summon by letter or telephone or personally the party complained of to appear before him at a certain time. Upon the hour set for such conciliation hearing, if the parties are present, it shall be the duty of the conciliator to hear the parties and their witnesses and to endeavor to effect an amicable settlement of the controversy agreeable to law and equity. Conciliators may in their discretion administer oath and require statements under oath. They shall make no records of the evidence adduced, and no part of the proceedings shall be admitted as evidence, or considered at the trial of the case, and no conciliator shall be competent as a witness in respect thereto in any subsequent proceedings; but the foregoing shall not apply to actions known as provisional remedies or actions involving title to or possession of real estate and suits involving over Two Hundred (\$200.00) Dollars.

§ 2. Section 9192a6 of Supplement to the Compiled Laws of 1913 and Chapter 187, Session Laws of 1929 and all Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 6, 1931.

CHAPTER 218  
(S. B. No. 72—Matthaei.)

**LIMITATION ACTION FORECLOSURE REAL ESTATE  
MORTGAGES**

**An Act to limit the time in which action may be commenced or defense interposed, involving certain actions or proceedings for the foreclosure of real estate mortgages.**

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

§ 1. After six months from and after this Act takes effect, no action shall be commenced to set aside foreclosure of a real estate mortgage given prior to January 1st, 1931, and no foreclosure of such mortgage shall hereafter be set aside, in any action or proceedings by a foreign Executor, Administrator, or Guardian, by reason of the appointment of a resident Executor, Administrator, or Guardian, or by reason of the failure of any such foreign Executor, Administrator, or Guardian to file an authenticated copy of his appointment as such Executor, Administrator, or Guardian, in the Office of the Clerk of the District Court, or record such copy in the Office of the Register of Deeds of the county in which the action or proceedings to foreclose such mortgage were commenced, where a certified copy of such appointment has theretofore been recorded in such county, and in which action or proceedings to foreclose such mortgage a Sheriff's Certificate has been issued prior to the taking effect of this Act.

§ 2. EMERGENCY.] Whereas, some question has arisen with respect to the validity of certain real estate mortgage foreclosures in this State and the title to real property is dependent thereon and it is advisable that such titles be speedily settled, therefore, this Act is declared an emergency and shall be in full force and effect, immediately upon its passage and approval.

Approved March 6, 1931.

CHAPTER 219  
(H. B. No. 131—Acheson.)

**WHEN FORECLOSURE PROCEEDING ENJOINED**

**An Act to amend and re-enact Section 8074 of the Compiled Laws of 1913.**

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

§ 1. That Section 8074 of the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 8074. WHEN PROCEEDING ENJOINED.] When the mortgagee or his assignee has served notice of intention to foreclose a

mortgage, and within the period provided by such notice it shall be made to appear by the affidavit of the mortgagor, his agent or attorney, to the satisfaction of a judge of the district court of the county where the mortgaged property is situated, that the mortgagor has a legal counterclaim or any other valid defense against the collection of the whole or any part of the amount claimed to be due on such mortgage, which proof must be made by affidavit stating the facts, but not on information and belief, such judge may by an order to that effect enjoin the mortgagee or his assignee from foreclosing such mortgage by advertisement and direct that all further proceedings for the foreclosure thereof be had in the district court properly having jurisdiction of the subject matter; provided, that after expiration of the period provided for in said notice of intention an order enjoining the foreclosure by advertisement shall be made only on motion or order to show cause; eight days notice of which motion, together with the affidavit used in support thereof, shall be served upon the attorneys or agent of the mortgagee or assignee in the same manner as service of other notices of motion; the affidavits in support of such motion shall state the facts upon which the application is made and shall not be on information and belief and shall disclose a legal counter-claim or other valid defense to the collection of the whole or some part of the amount claimed to be due on such mortgage, and upon the hearing of said motion the judge may likewise enjoin the foreclosure of the mortgage by advertisement in the same manner as if the application had been made ex parte within the period of the notice of intention to foreclose. Service of the restraining order may be made upon the attorney or agent of the mortgagee or assignee if obtained ex parte, or if obtained on motion or order to show cause, it may be served upon such attorney or agent, or upon the sheriff of the county where the foreclosure sale is to be had. Provided, further, that if the notice of intention does not disclose the address of a resident agent or attorney the order may be served upon such sheriff.

§ 11. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 2, 1931.

## PUBLIC DANCES

### CHAPTER 220

(H. B. No. 284—Van Berkom and Burns.)

#### PERMITS PUBLIC DANCES AND DANCE PLACES

An Act to amend and re-enact Section 3163a3 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, relating to regulating public dances and dance places and providing who shall issue permits therefor.

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

§ 1. AMENDMENT.] Section 3163a3 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 3163a3. WHO SHALL ISSUE PERMITS.] In all cities, villages and organized townships in this State, a permit must be procured from the governing body of the municipality or organized township. In unorganized townships the permits must be obtained from the County Commissioners of the county in which such public dance is to be held or in which the public dancing place is located. Such permits may be issued for one or more public dances, or for a public dancing place for a period of not more than one year at any one time. When the permit is issued to any person, firm, association or corporation to conduct a public dancing place, public dances may be conducted in such place only by the person, firm, association or corporation to whom such permit is issued. Such permit shall not be transferable. Provided, that such governing board, in the event of the refusal to issue such permit, shall state in writing the reasons for such refusal, and in the event of such refusal, the applicant, feeling himself aggrieved, shall have the right to appeal to the District Court within and for such county, where the question of the issuance of said permit shall be heard upon the merits and if such Court finds that there are no legal grounds for refusing such permit such Court shall order the issuance thereof. Such appeal may be taken by serving notice of appeal, setting forth the grounds for appeal, the same as is now provided in reference to appeals from justice court, and such decision of the District Court is subject to appeal as in all other cases.

Approved March 9, 1931.

## PUBLIC DEPOSITORIES

### CHAPTER 221

(H. B. No. 247—Martin of Bottineau)

#### ITEMIZED STATEMENTS DEPOSITORY BANKS.

An Act to amend and re-enact Section 714a14 of the Supplement to the 1913 Compiled Laws of North Dakota, relating to itemized statements furnished by depository banks.

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

§ 1. That Section 714a14 of the Supplement to the 1913 Compiled Laws of North Dakota be and the same is amended and re-enacted to read as follows:

§ 714a14. ITEMIZED STATEMENTS.] Each depository shall furnish to the public corporation, the state, or state institution, to whose credit the deposit is held, on the first day of each month, an itemized statement of amount in such deposits subject to check. Such statement shall be verified whenever required by the State Treasurer as to funds of the state institutions, or by the treasurer of any public corporation, as to funds of such corporations. All sums of interest accruing on funds so deposited shall be credited to said deposit on the first day of each month for the preceding month.

Each depository shall, on July 1st of each year, furnish to the clerk of each school district, and to the county superintendent of schools of the county in which the school district is located, a statement showing the amount of deposits to the credit of each school district at the close of business on June 30th.

Approved March 9, 1931.

### CHAPTER 222

(S. B. No. 123—Committee on Banks and Banking.)  
By Request of the Voluntary Banking Code Commission

#### PROPOSALS, INTEREST RATES, DEPOSITS PUBLIC FUNDS

An Act amending and re-enacting Sections 714a8 and 714a13, Supplement to the Compiled Laws of 1913, as amended by Chapter 227 of the Session Laws for the year 1927, relating to the interest rates on and proposals for deposits of public funds.

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

§ 1. AMENDMENT.] That Section 714a8, Supplement to the Compiled Laws of 1913, as amended by Chapter 227 of the Session Laws of 1927, is hereby amended and re-enacted to read as follows:

§ 714a8. BOARD MEETINGS. NOTICE. PROPOSALS FOR DEPOSITS.] The Board, except the State Board of Auditors, shall at its regular meeting in January of each even numbered year after the taking effect of this Act assemble and examine all outstanding bonds whenever necessary in order to comply with the provisions of this law. If there be no regular meeting of the Board in January, required by any law heretofore in force, the Board shall assemble for said purpose not later than the third Tuesday in January. At its regular meeting in January after this Act takes effect, the Board shall designate depositories of public funds as herein provided. The clerk of such Board shall, at least ten days before such meeting, notify every bank in the county, both State and National, that at the next regular meeting, or if no meeting be required by law to be held in January of each even numbered year, then at a meeting to be called for that purpose, the Board will designate a depository or depositories of public funds. Such notice shall be given by registered mail. The notice shall further recite the probable amount of public funds to be deposited, indicating separately sinking funds to be deposited on time and call funds to be deposited subject to check and draft; such notice shall advise the bank that proposals will be received for such deposits, and that the interest rate on such deposits shall not exceed two per cent on call deposits and shall not exceed four per cent on time deposits. It shall further recite that the Board expects the depositories to pay interest on public funds at substantially the same rate it pays interest on funds deposited by private persons.

Provided that township clerks and clerks of common school districts shall not be required to give the notice herein provided for, but the Board of Supervisors of any township or the School Board of any common school district, may at its discretion designate depositories at any time. Proposals for deposit shall be sealed and delivered to the clerk and shall state in writing what rate of interest will be paid on average daily balances during the month and what interest will be paid on time deposits, and shall have attached to it a statement showing the financial condition of the bank at that time and as disclosed in the several statements of financial condition made during the last preceding twelve months. This section shall not apply to designating of the depositories by the State Board of Auditors.

Provided, however, that depositories designated prior to the taking effect of this Act shall continue as such depositories until after the meeting of the Board in January, as herein provided.

§ 2. AMENDMENT.] That Section 714a13, Supplement to the Compiled Laws of 1913, as amended by Chapter 227 of the Session Laws of 1927, is hereby amended and re-enacted to read as follows:

§ 714a13. INTEREST RATES.] The rate of interest on all public funds deposited as herein provided shall not exceed two per cent on daily balances subject to check or draft, credited monthly, and shall not exceed four per cent on time deposits. It is the intention of this Act that depositories of public funds in this State shall pay substantially the same rate of interest thereon as such banks pay to individual depositories upon individual deposits.

Approved March 11, 1931.

## PUBLIC IMPROVEMENTS

### CHAPTER 223

(H. B. No. 189—Jardine.)

#### ENFORCEMENT SUB-CONTRACTORS CLAIMS FOR CONSTRUCTION OF PUBLIC IMPROVEMENT

An Act to provide procedure for limiting the time within which claims of sub-contractors or persons furnishing any labor, material or supplies to contractors or sub-contractors for the construction of improvements for the State of North Dakota or any of its departments, or for any county, municipal corporation, school district or township in said state may be made and enforced.

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

§ 1. At any time after the completion of any work or improvement for the State of North Dakota, or any of its Departments, or for any school district or municipal corporation, county or township in said State, the principal contractor or his surety may publish a notice in the official newspaper printed and published in the county where such improvement was completed, and if said improvement shall extend into more than one county, then in at least one such newspaper in each county, stating that the said improvement has been completed and that all sub-contractors or persons who furnished any labor, material or supplies for any contractor or sub-contractor, naming them, for the making of such improvements, must file their claims with the contractor or his surety within six months after the first publication of said notice. The notice shall specify the name and address of the commission or agency of the state, county, township, school district or municipal corporation which caused the improvement to be made and the name and address of the contractor or surety, and claims shall be filed at both addresses so specified, provided that if the contractor be a non-resident of the State of North Dakota he shall designate a place in said state where claims may be filed, the notice to be published once each week for four successive weeks in the said official newspaper. All claims for any labor, material or supplies furnished for said improvements, which are not filed in accordance with the



provisions of said notice within six months after the first publication thereof, shall be barred as a lien or claim against said contractor and his surety, and no action upon any such claim so barred shall be maintained nor any right of set-off or counterclaim thereon enforced in any Court in this State against the State and/ or contractor or his surety, but nothing in this Act shall in any manner bar the right of any person who has furnished labor, supplies or material to any sub-contractor to enforce the same against the sub-contractor.

Approved March 11, 1931.

## PUBLIC WAREHOUSES

### CHAPTER 224

(S. B. No. 177—Marshall.)

#### LICENSE PUBLIC WAREHOUSE

An Act to amend and re-enact Section 8 of Chapter 155 of the Session Laws of North Dakota for the year 1927.

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

§ 1. AMENDMENT.] That Section 8 of Chapter 155 of the Session Laws of North Dakota for the year 1927 is hereby amended and re-enacted to read as follows:

§ 8. LICENSE. HOW OBTAINED, FEE.] A license must be obtained through the Commission to expire on the first day of August of each year for each public warehouse in operation in this State. No license so issued shall describe more than one public warehouse nor grant permission to operate any other public warehouse than the one described therein. The license fee, which must accompany the application, is hereby fixed at ten dollars for each warehouse. The fees collected under this Act shall be paid into the State Treasury and credited to the general fund of the State. Provided, however, that in the event a public warehouseman operates more than one such warehouse in the same city, town, village or siding, where such warehouses are operated in conjunction with each other, and with the same working force, and where but one set of books and records is kept for all such warehouses, and but one series of cash slips, scale tickets, storage tickets, and checks are issued for grain stored therein, only one license shall be required for the operation of all such warehouses.

Approved March 11, 1931.

## CHAPTER 225

(S. B. No. 191—Gronvold.)

## LICENSE EXEMPTIONS PUBLIC WAREHOUSES

An Act to amend and re-enact Section 3148 of the Compiled Laws of North Dakota for the year 1913, relating to licensing of public warehouses and exemptions therefrom.

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

§ 1. AMENDMENT.] That Section 3148 of the Compiled Laws of North Dakota for the year 1913, is amended and re-enacted to read as follows:

§ 3148. TO WHOM APPLIED.] This article shall not be construed to apply to any implement transfer company, or to any garage storing motor vehicles for hire for the owners thereof, or to any railroad or transportation company; provided, such railroad or transportation company shall, within forty-eight hours after receipt of such goods, wares and merchandise, notify the consignee of the arrival thereof in writing, and in case such consignee, or his assignee, fails and neglects to call for or receive said goods, wares or merchandise within thirty days after such receipt of same by any railroad or transportation company as aforesaid, said railroad or transportation company must turn over said goods, wares or merchandise to a licensed bonded storage company or warehouseman in the city, town or village in which said goods, wares or merchandise are then located, if any there be, and if not, to the licensed bonded storage company or warehouseman in the city, town or village on the line of the carrier nearest to the place where such goods, wares or merchandise are then located, upon the payment of the charges of said carriers thereon, which charges thus paid by said bonded storage company or warehouseman to said carriers shall be a lien on said goods, wares or merchandise.

Approved March 11, 1931.

## CHAPTER 226

(H. B. No. 213—Lavik and Acheson.)

## REDEMPTION WAREHOUSE STORAGE TICKETS

An Act to amend and re-enact Section 31 of Chapter 155 of the 1927 Session Laws of the State of North Dakota relating to the redemption of storage tickets upon transfer of warehouse.

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

§ 1. AMENDMENT.] That Section 31 of Chapter 155 of the 1927 Session Laws of the State of North Dakota be amended and re-enacted to read as follows:

§ 31, Chapter 155. TRANSFER OF WAREHOUSE. REDEMPTION OF STORAGE TICKETS.] Whenever the owner, lessee or manager of a public elevator or warehouse licensed to do business in this State, desires to transfer said elevator or warehouse, either by sale or lease to any other individual, firm or corporation, he shall first notify the Commission of his intention to transfer said elevator or warehouse, giving the name and address of the proposed lessee or purchaser, and shall furnish a statement of all proper claims that may be filed or pending against said person, firm, corporation or association as pertaining to the storage, inspection and marketing of grain during the term of said license, together with a statement of the number of bushels of grain of each kind and grade in store in said elevator or warehouse, and of the number and amount of storage tickets outstanding, and the names and addresses of such ticket holders; he shall by registered return mail serve not less than 30 days notice upon all storage receipt holders having claims against his warehouse to call for delivery of the grain covered by such storage receipts, paying all storage charges due, warehouseman to make no charge for redelivery. All stored grain undelivered at the expiration of such 30 day period, shall be transferred by warehouseman to his successor if licensed, or to the nearest licensed warehouse for re-storage, taking receipt or receipts for same in favor of the owner or owners of the grain so transferred, such re-storage receipts to be filed with the Commission until called for by the owners. He shall surrender to the Commission his license for cancellation and the proposed lessee or purchaser shall apply in due form for a new license and tender a new bond for approval by the Commission, whereupon, it, first being duly satisfied that all of the outstanding storage tickets have been redeemed, or that the redemption thereof has been provided for, may issue a new license for the unexpired portion of the license period to said lessee or purchaser. No sale, lease or transfer of any elevator or warehouse, will be recognized or permitted by the Commission except where made in accordance with the above provision.

§ 2. REPEAL.] All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 11, 1931.

CHAPTER 227  
(S. B. No. 222—Watt.)

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**STORAGE, DELIVERY CHARGES, ETC., PUBLIC  
WAREHOUSEMEN**

**An Act to amend and re-enact Section 18 of Chapter 155, Session Laws of North Dakota for 1927; providing for the regulation of storage and delivery charges of public warehousemen and providing for the form of receipt to be issued by such warehousemen.**

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

§ 1. AMENDMENT.] That Section 18 of Chapter 155 of the Session Laws of North Dakota for 1927 is hereby amended and re-enacted to read as follows:

§ 18. STORAGE AND DELIVERY CHARGES. TERMINAL DELIVERY.] Every public warehouseman shall receive for storage, so far as the capacity of his warehouse will permit, all grain tendered to him without discrimination of any kind, provided, that such grain is sound and in a warehouseable condition. Upon date of delivery of grain for storage a warehouse receipt shall be issued to the owner or his agent, which shall state the place and date when the grain was received, the name of the owner of the grain, the kind and grade of the grain according to the official standards established by the Secretary of Agriculture of the United States, the gross weight, dockage, and net weight of the grain as per North Dakota standard weight. All receipts shall be consecutively numbered, and no two receipts bearing the same number and series shall be issued during the same year. No receipt shall be issued except upon actual delivery of grain into such warehouse. No warehouseman shall insert in any such receipt any language in any wise limiting or modifying his liability as imposed by the laws of this state. Such receipt shall contain either on its face or reverse side the following specific warehouse and storage contract:

“This grain is received, insured and stored subject to the following charges: one thirty-sixth of one cent per net bushel per day; provided, however, that no storage shall be charged for grain so stored for fifteen days from date of delivery. Upon surrender of this receipt and payment or tender of a delivery charge per gross bushel of three cents on flax, two cents on wheat or rye, and two cents on other grains, and all other stated lawful charges accrued up to the time of said surrender of this receipt, the above amount, kind and grade of grain will be delivered to the person named above or his order as rapidly as due diligence, care and prudence will permit. At the option of the holder of this receipt, the amount, kind and grade of grain for which this receipt is issued shall, on his demand, be delivered back to him, at any terminal point customarily shipped to, or at the place where received, upon the payment of the above

charges for receiving, handling, storage and insurance; and in case of terminal delivery, the payment in addition to the above, of the regular freight charges on the gross amount called for by this ticket, or in lieu thereof, a receipt issued by a bonded warehouse or elevator company doing business at such terminal point. Nothing in this receipt shall be construed to require the delivery of the identical grain specified herein, but an equal amount of grain of the same kind and grade, shall be delivered to him."

Public warehousemen may also insert in the said receipt the following provision:

"If any of the grain embraced in this receipt shall prove to be covered by a chattel mortgage or other lien, or the partial or absolute title prove to be in some other than the person to whom this receipt was issued, the same shall, if discovered before the delivery of the grain, be sufficient reason for the refusal to deliver to the holder of the receipt, or if discovered after the delivery of the grain such delivery shall be deemed an over delivery for which said holder of this receipt, to whom such delivery is made, shall be accountable."

Provided, further, that grain placed in a special bin shall be excepted from the provisions of this section.

Approved March 18, 1931.

## CHAPTER 228

(H. B. No. 71—Isaac and Plath.)

### TERMINATION PUBLIC WAREHOUSE GRAIN STORAGE CONTRACTS

An Act relating to the termination of storage contracts on grain in public warehouses; providing for renewal of storage receipts and permitting the sale of sufficient stored grain to cover accrued storage charges.

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

§ 1. All storage contracts on grain in store at public grain warehouses shall terminate on June 30th of each year. Storage on any or all such grain may be terminated by the owner at any time before the date mentioned herein by the payment of all legal charges and the surrender of the storage receipt, together with a demand for delivery of such grain, or notice to the warehouseman to sell the same.

In the absence of a demand for delivery, an order to sell, or a mutual agreement for the renewal of the storage contract, entered into prior to the expiration of the storage contract, the warehouseman shall, upon the expiration of the storage contract, sell, at the local market price on the close of business on that day, sufficient of said stored grain to satisfy all accrued storage charges thereon and also advances upon and liens against such storage contract, and shall issue

a new storage receipt for the balance of said grain to the owner thereof upon the surrender of the old storage receipt, properly cancelled.

Provided, however, that in computing storage charges on grain covered by storage receipt which is surrendered for cancellation on June 30, for a new receipt, as provided above, no elevator or its agent shall be entitled to more than ten cents (10¢) storage per bushel for any twelve month period dating from day of original delivery of said grain. On or before June 1st of each year the warehouseman shall notify by mail the person in whose name the grain was stored, of his intention to make such sale, and for this purpose at the time of the issuance of each storage receipt, the postoffice address of such person to whom such receipt was issued, shall be inserted therein.

§ 2. Upon the payment of all legal accrued charges and the return of the storage receipt, the public grain warehouseman and the storage receipt holder may enter into an agreement for the renewal of such storage. When such renewal is agreed to, the warehouseman shall issue a new storage receipt to the owner and cancel the former receipt by endorsing thereon the words "Cancelled by the issuance of storage receipt No.....," inserting the number of the new storage receipt thereafter. The cancelled storage receipt shall be signed by the warehouseman, his agent or manager, and the holder.

§ 3. There shall be printed upon all warehouse receipts the following words: "All storage contracts on grain in store at public grain warehouses shall terminate on June 30th of each year. If storage charges and advances remain unpaid at the time of such termination, the warehouseman reserves the right to sell sufficient of said grain to pay such charges, and advances."

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

Approved March 10, 1931.

## SCHOOL AND STATE LANDS

### CHAPTER 229 (H. B. No. 82—Halvorson.)

#### COLLECTION MONEYS DUE ON SCHOOL LANDS

An Act to amend and re-enact Section 326 of the Compiled Laws of North Dakota for 1913, relating to the collection by County Treasurers and the State Land Commissioner of moneys due on school lands held under contract of sale or leased from the state and providing the manner of reporting such collections to the State Auditor and the Commissioner of the Board of University and School Lands, and prescribing the duties of County Treasurers, County Auditors and State Land Commissioner in connection therewith.

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

§ 1. AMENDMENT.] That Section 326 of the Compiled Laws of North Dakota for 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 326. COLLECTIONS BY COUNTY TREASURERS AND THE STATE LAND COMMISSIONER OF MONEYS DUE ON SCHOOL LANDS HELD UNDER CONTRACT OF SALE, EITHER PRINCIPAL, INTEREST OR PENALTY, OR LEASES FROM THE STATE, AND PROVIDING THE MANNER OF REPORTING SUCH COLLECTIONS AND THE DUTIES OF COUNTY TREASURERS, COUNTY AUDITORS AND STATE LAND COMMISSIONER.] The lessee of any land mentioned in this article or his executors, administrators, or assigns shall pay to the County Treasurer of the County in which such lands lie any and all amounts that may become due from time to time upon such leases, and for the amounts so paid the County Treasurer shall give to such persons a duplicate receipt, specifying the amount paid, date of payment, the number of the lease, and the description of the land for which the payment is made, name of the person making such payment, nature of the payment, whether for rent, interest or penalty, and for what year, and a separate receipt shall be given for each lease, and a separate receipt for each year's payment.

All moneys received by each County Treasurer under the provisions of this article shall at all times be held by him subject to the order and direction of the State Treasurer and the Board of University and School Lands, and on the first day of each month or within fifteen days thereafter, the County Treasurer of each county shall make report to the Commissioner of University and School Lands of all moneys so collected by him during the next preceding calendar month, which report shall be in such form and on such blanks as may be prescribed and furnished by the Commissioner, and such report shall embrace a list of all receipts for the month, briefly described, amount of each receipt, and the total amount collected for the month from each source. Such reports shall be duly certified by the County

Treasurer as correct and shall be by him transmitted forthwith to the Commissioner of University and School Lands, together with a triplicate of each receipt shown on each report. The County Treasurer shall also and at the same time that he makes his report to the Land Commissioner, make a similar report to the State Auditor, of the total amount collected from said sources for the month, which shall correspond with the amount reported to the Land Commissioner as herein provided. As soon as possible after he has received the reports from the several County Treasurers, as provided in this section, it shall be the duty of the Commissioner of University and School Lands to check up and verify said reports from the records of his office and to apportion the several amounts to the funds to which the same are applicable, which apportionment he shall certify to the State Auditor, who shall proceed to make drafts on the respective County Treasurers in the same manner as drafts are made for state taxes, and to the credit of the proper funds as certified to him by the Land Commissioner.

The purchaser of any land mentioned in this article, his executors, administrators or assigns shall pay to the Commissioner of University and School Lands any and all amounts that may become due from time to time upon such contracts for principal, interest and penalties, interest being payable annually, and the said State Land Commissioner shall daily report and pay to the State Treasurer all such collections of principal, interest and penalty payments, and shall so receipt therefor in conformity with the provisions heretofore made in this section for receipts to lessees, and at the time of such payment to the State Treasurer shall apportion the amounts so paid into the funds to which the same are applicable, which apportionment he shall certify to the State Auditor.

Approved March 10, 1931.

## CHAPTER 230

(H. B. No. 81—Halvorson.)

### INTEREST ON DAILY BALANCES SCHOOL LAND FUNDS

**An Act relating to the disposition of interest on daily balances on all moneys in the hands of the Commissioner of University and School Lands and instructions to the Commissioner of University and School Lands.**

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

§ 1. The Commissioner of University and School Lands is hereby authorized, instructed and directed to place all moneys either heretofore or hereafter received as interest on daily balances to the credit of the General Fund of the State in the manner and at the times now required for other payments to said General Fund by the said Commissioner.

Approved March 7, 1931.



## CHAPTER 231

(H. B. No. 80—Halvorson.)

## FEES LEASING AND SALE OF SCHOOL LANDS

An Act to amend and re-enact Section 363 of the Compiled Laws of North Dakota for 1913, relating to the fixing and collecting of fees at the leasing and sale of school lands.

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

§ 1. AMENDMENT.] That Section 363 of the Compiled Laws of North Dakota for 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 363. FEES FOR SERVICE. DUTY OF COUNTY TREASURER.] It shall be the duty of the Commissioner of University and School Lands to charge and collect the following fees: For each one year lease of school or other state land \$1.50. For each lease for a period of three years \$3.50. For each lease for a period of five years \$5.00. For each contract for lands purchased, \$5.00. For each patent, \$5.00. For approving and recording each assignment of school land contract, \$5.00. For furnishing certified copies of school land contracts, \$3.00. All fees must be paid in advance, and when collected must be paid into the State Treasury at the end of each month and be placed to the credit of the expense fund of the Board of University and School Lands. It shall be the duty of the County Treasurer of any county where any such lands are leased, or sold, to collect the fees hereinbefore provided for, at the time the first payment thereon is made for leases and contracts of sale, and transmit the same to the Commissioner on the first day of each month.

Approved February 11th, 1931.

## CHAPTER 232

(H. B. No. 83—Halvorson.)

LEASING SCHOOL LANDS SUPPOSED TO CONTAIN GAS,  
SODIUM, CHEMICAL OR ALLODIAL AND OTHER CLAYS.

An Act providing for the leasing of state of (or) school lands supposed to contain gas, sodium, chemical substances or allodial and other clays and to make and establish rules and regulations relative to the development thereof; providing for rents to be collected therefrom, and for the sale of improvements on such lands; for the assignment thereof and for geological or chemical reports thereon.

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

§ 1. WHEN GRANTED.] The State Board of University and School Lands is hereby authorized to lease any State or School Lands supposed to contain gas, sodium, chemical substances or allodial and

other clays and to make and establish rules and regulations covering the conduct of development and drilling operations to be carried thereunder.

§ 2. RENTS.] Leases shall be issued by said board at such annual payments as shall be fixed by the board authorized to lease such lands.

§ 3. SALE. APPRAISAL OF IMPROVEMENTS.] If gas, sodium, chemical substances or allodial and other clay lands upon which improvements have been made, shall be sold, or if such lands shall be leased to other than the owner of the improvements thereon, then such purchaser or such new lessee shall pay to the owner thereof the value of said improvements, at an agreed price with the owner thereof; or if agreement cannot be reached, then at such price as shall be fixed by appraisement under the authority of the Board of University and School Lands. The word "improvements" shall not be construed to mean surface improvements, machinery and other equipment used and necessary for the operation of, and work performed in the development of the property for the drilling for gas, the extraction of any sodium, chemical substances, or allodial and other clays, unless such development work is of practical use for future operations or drilling upon such land. Wells drilled for gas which do not produce gas in commercial quantities shall not be considered as improvements.

§ 4. DISTINCT FROM SURFACE LEASE.] All leases made under this act shall be separate and distinct from any lease of the grazing and farming privileges thereon that may be made by said board, and the regulations so made by said board in connection therewith shall provide for the use of said lands for grazing and farming purposes without interference by the lessees herein provided for.

§ 5. ASSIGNMENTS.] No lease made under the provisions of this act shall be assignable or transferable except under the written consent of the board issuing the same; and the board in each case shall require the execution of a good and sufficient bond on the part of the lessee conditioned upon the payment of all moneys and rentals provided for by the terms of said lease, and for the full compliance and observance of all rules and regulations established by said board and for all other terms which may be set forth in said lease not inconsistent with the terms of this act.

§ 6. REPORTS UPON.] The State Geologist or State Chemist, when requested by the Board of University and School Lands of this state, shall visit and make a report upon any lands held under any lease issued under and by virtue of this act. Such report shall be made without any fee to the officer making the same, but said State Geologist or State Chemist shall be paid his necessary expenses therefor.

§ 7. EMERGENCY.] An emergency is hereby declared to exist and this act shall become effective immediately upon its passage and approval.

Approved March 7, 1931.

CHAPTER 233

(H. B. No. 114—Halvorson.)

REDEMPTION STATE AND SCHOOL LANDS.

An Act to amend and re-enact Section 319 of the Compiled Laws of North Dakota for 1913, relating to redemption of state and school lands, on which contracts have been cancelled, providing for the re-sale of such lands at public and private sale, interest rate on deferred and interest payments, publication of notice of sale, method of cancellation of contracts, taxation of lands sold, redemption, rights of tax certificate holder, and rules and regulations of the Board of University and School Lands.

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

§ 1. AMENDMENT.] That Section 319 of the Compiled Laws of North Dakota for 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 319. REDEMPTION BEFORE RE-SALE, RE-SALE OF SUCH LANDS AT PUBLIC AND PRIVATE SALE, INTEREST RATE ON DEFERRED AND INTEREST PAYMENTS, PUBLICATION OF NOTICE OF SALE, METHOD OF CANCELLATION OF CONTRACTS, TAXATION OF LANDS SOLD, REDEMPTION, RIGHTS OF TAX CERTIFICATE HOLDER, AND RULES AND REGULATIONS OF THE BOARD OF UNIVERSITY AND SCHOOL LANDS.] In all cases where the rights of a purchaser, his heirs, or assigns, become forfeited under the provisions of this article, by failing to pay the amounts required, such purchaser, his heirs or assigns, may, before the resale at public auction of the lands described in such contract, pay to the Land Commissioner the amount of interest due and payable on such contract, and all costs which have been incurred in addition thereto, together with interest at the rate of six per cent per annum on the interest and costs so due from the date of delinquency to the date of payment, and such payment shall operate as a redemption of the rights of such purchaser, his heirs or assigns, and such contract from the time of such payment shall be in full force and effect, as if no forfeiture had occurred. Provided, further that whenever a contract made under the provisions of this chapter has been cancelled, the Board of University and School Lands may sell and convey said land at private sale to any person; provided, however, that such sale be subject to any then existing lease of such land and premises, and such land must be so sold for cash and for not less than the amount due upon said contract at the time of such cancellation with interest on such sums at five per cent per annum, and the amount of all taxes and recording fees paid by the State,

with interest at five per cent thereon to the date of conveyance, together with the costs and expenses of such sale. The Board of University and School Lands shall issue to the purchaser a quit claim deed conveying the right of the State in and to such land and premises, which deed shall be signed and executed in the manner provided as to assignments of mortgage by such Board.

The Board of University and School Lands may sell and dispose of said land at public sale to the highest bidder according to the terms fixed by said Board, but in no case shall said Board be authorized to accept less than one-fifth of the price in cash, nor shall the time of payment extend beyond the period of twenty years. All deferred payments and all past due interest shall draw interest at the rate of six per cent per annum. Such sale shall be subject to any then existing lease of such land and premises and such land must be sold for not less than the appraised value as determined by the County Board of Appraisal of the county in which said land is located. Provided, that in the case of public sale, the Board of University and School lands shall cause to be published once each week for a period of two weeks prior to the day of sale, in a legal newspaper published within the county in which said land is situated, a notice of such sale, properly describing said land, together with the appraised value thereof, and the terms and conditions of sale. The Land Commissioner shall execute and deliver a contract of sale to the purchaser, said contract to be in the form prescribed by the Board, and the purchaser at such sale shall also pay the costs and expenses thereof. When final payment has been made to the State, The Board of University and School Lands shall issue to the purchaser, his heirs, or assigns, a quit claim deed conveying such land and premises, which deed shall be signed and executed in the manner hereinbefore provided as to assignment of mortgages. In case the purchaser fails to pay either the principal, interest or taxes in accordance with the provisions of said contract, the Board of University and School Lands may in its discretion by resolution declare such contract null and void and cancelled and of no further force or effect; and in case of such declaration, shall notify the holder thereof of such declaration, by written notice mailed to his post office address. A certified copy of said resolution shall be forwarded to the County Auditor and the Register of Deeds of the county in which such land is situated. The Register of Deeds shall record such certified copy of said resolution in the proper records of his office, and said resolution, when so recorded, shall operate as a complete and final cancellation of said contract, without any order or decree of the court. When such contract has been cancelled, such land shall not thereafter be listed for taxation.

The Land Commissioner shall, as soon as possible after a sale of such land, transmit to the auditor of the county in which such

land is located, a detailed description of the land so sold, and the name of the purchaser, and the auditor shall extend the same upon his tax records for the purpose of taxation. Land contracted to be sold by the State shall be subject to taxation from the date of such contract and the taxes assessed thereon shall be collected and enforced in like manner as against other land. Such land may be sold for delinquent taxes as other lands are sold, and the purchaser shall only acquire, by virtue of such purchase, the right to be substituted in the place of such holder and owner of such contract of sale, as the assignee thereof; and upon the production to the Land Commissioner of the tax certificate given upon such tax sale, in case such land has not been redeemed, such tax purchaser shall have the right to have his name substituted in place of the original holder and owner of such contract, provided, however, that no substitution shall take place unless such tax purchaser makes payment of principal or interest then in default upon such contract of sale as the assignee thereof, and provided, further, that no substitution shall take place until three years after the date of such tax certificate. No tax deed shall be issued upon any tax certificate procured, while the legal title of said land remains in the State of North Dakota.

In all cases where the rights of a purchaser, his heirs, or assigns, become forfeited, by failing to pay the amounts required, such purchaser, his heirs and assigns may, before the re-sale at public auction of the land described in such contract, redeem the land and premises by paying all past due, deferred and interest payments, and all costs which have been incurred in addition thereto, together with interest on such sums at the rate of six per cent per annum, provided, however, that no redemption shall be made where the name of the tax purchaser has been substituted in place of the contract holder. In the event of a redemption of said land and premises, the Land Commissioner shall execute and deliver a new contract of sale to the purchaser, his heirs or assigns, said contract to be in the form prescribed by the Board.

The Board of University and School Lands is hereby authorized to make such rules and regulations, as shall be by it deemed necessary for the manner, place and time of payment of principal, deferred and interest payments, and for such other conduct of the business of selling and disposing of lands on which contracts have been cancelled, not in conflict with the provisions of law.

§ 2. EMERGENCY.] An emergency is hereby declared to exist, and therefore this Act shall take effect and be in force immediately upon its passage and approval.

Approved March 10, 1931.

CHAPTER 234  
(H. B. No. 203—Halvorson.)

**SATISFACTION, FORECLOSURE, ETC., MORTGAGE LOANS  
BOARD OF UNIVERSITY AND SCHOOL LANDS**

An Act to amend and re-enact Section 288 of the 1913 Compiled Laws of North Dakota, and Section 292 of the Supplement to the 1913 Compiled Laws of North Dakota, as amended and re-enacted by Chapter 214 of the Session Laws of North Dakota for 1929, relating to the satisfaction and foreclosure of mortgages held by the Board of University and School Lands, rate of interest required to be paid in case of redemption, assignments of mortgages, sale of foreclosed lands at public and private sale, interest rate on deferred and interest payments, publication of notice of sale, method of cancellation of contract, taxation of lands sold, redemption, rights of tax certificate holder, and rules and regulations of Board of University and School Lands.

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

§ 1. AMENDMENT.] That Section 288 of the 1913 Compiled Laws of North Dakota, be and the same is hereby amended and re-enacted to read as follows:

§ 288. SATISFACTION OF MORTGAGE LOANS ON REAL ESTATE.] The Commissioner of University and School Lands, who is also the Secretary of the Board of University and School Lands, is hereby empowered and required to satisfy real estate mortgages given to the Board of University and School Lands whenever the loans secured by such mortgages shall have been fully paid as certified to him by the State Treasurer.

§ 2. AMENDMENT.] That Section 292 of the Supplement to the 1913 Compiled Laws of North Dakota, as amended and re-enacted by Chapter 214 of the Session Laws of North Dakota for 1929, be and the same is hereby amended and re-enacted to read as follows:

§ 292. MORTGAGE LOANS, FORECLOSURE, RATE OF INTEREST REQUIRED TO BE PAID IN CASE OF REDEMPTION, ASSIGNMENTS, SALE AT PUBLIC AND PRIVATE SALE, INTEREST RATE ON DEFERRED AND INTEREST PAYMENTS, PUBLICATION OF NOTICE OF SALE, CANCELLATION OF CONTRACT, TAXATION OF LANDS SOLD, REDEMPTION, RIGHTS OF TAX CERTIFICATE HOLDER, AND RULES AND REGULATIONS OF BOARD OF UNIVERSITY AND SCHOOL LANDS.] Mortgage loans made under the provisions of this chapter may be foreclosed either by action or advertisement, in the same manner and upon the same notice as required in other real estate foreclosures. When foreclosure is made by action, said action shall be brought and prosecuted in the name of the State; provided, that the Board of University and School Lands may, and it is hereby authorized and empowered to assign any or all of said mortgages, whenever in the

judgment of said Board it shall be for the best interests of the State so to do; provided, however, that said Board shall not accept as a consideration for said assignment any amount less than the principal and interest due upon said mortgage or mortgages. Such assignments when made shall be executed by the Commissioner and Secretary of the Board of University and School Lands, and attested by the Secretary of State with the Great Seal of the State of North Dakota attached. Provided, further, that whenever a mortgage loan made under the provisions of this chapter has been foreclosed, the debtor or redemptioner may redeem the property from the purchaser within one year after the sale on paying the purchaser the amount of his purchase with five per cent interest thereon together with the amount of any assessment or taxes which the purchaser may have paid thereon after the purchase, and interest at the same rate on such amount; and if the purchaser is also a creditor having a prior lien to that of the redemptioner other than the mortgage under which such purchase was made, the amount of such lien with interest. Provided, further, that whenever a mortgage loan made under the provisions of this chapter has been foreclosed and a sheriff's deed to the mortgaged premises issued to the State, the Board of University and School Lands may sell and convey the said land at private sale to any person; provided, however, that such sale be subject to any then existing lease of such land and premises, and such land must be so sold for cash and for not less than the amount for which the land was sold to the State on mortgage foreclosure sale, with interest on such sums at five per cent per annum, and the amount of all taxes and recording fees paid by the State, with interest at five per cent thereon to the date of conveyance. The Board of University and School Lands shall issue to the purchaser a quit claim deed conveying the right of the State in and to such land and premises, which deed shall be signed and executed in the manner hereinbefore provided as to assignments of mortgages.

The Board of University and School Lands may sell and dispose of said land at public sale to the highest bidder according to the terms fixed by said Board, but in no case shall said Board be authorized to accept less than one-fifth of the price in cash, nor shall the time of payments extend beyond the period of twenty years. All deferred payments and all past due interest shall draw interest at the rate of six per cent per annum. Such sale shall be subject to any then existing lease of such land and premises and such land must be sold for not less than the appraised value as determined by the County Board of Appraisal of the county in which said land is located. Provided, that in the case of public sale, the Board of University and School Lands shall cause to be published once each week for a period of two weeks prior to the date of sale, in an official legal newspaper published within the date of sale, in an

official legal newspaper published within the county in which said land is situated, a notice of such sale, properly describing said land, together with the appraised value thereof, and the terms and conditions of sale. The Land Commissioner shall execute and deliver a contract of sale to the purchaser, said contract to be in the form prescribed by the Board. When final payment has been made to the State, the Board of University and School Lands shall issue to the purchaser, his heirs or assigns, a quit claim deed conveying such land and premises, which deed shall be signed and executed in the manner hereinbefore provided as to assignment of mortgages. In case the purchaser fails to pay either the principal, interest or taxes in accordance with the provisions of said contract, the Board of University and School Lands may in its discretion by resolution declare such contract null and void and cancelled and of no further force or effect; and in case of such declaration, shall notify the holder thereof of such declaration, by written notice mailed to his post office address. A certified copy of said resolution shall be forwarded to the county auditor and the register of deeds of the county in which such land is situated. The register of deeds shall record such certified copy of said resolution in the proper records of his office, and said resolution, when so recorded, shall operate as a complete and final cancellation of said contract, without any order or decree of the court. When such contract has been cancelled, such land shall not thereafter be listed for taxation.

The Land Commissioner shall, as soon as possible after a sale of such land, transmit to the auditor of the county in which such land is located, a detailed description of the land so sold, and the name of the purchaser, and the auditor shall extend the same upon his tax records for the purpose of taxation. Land contracted to be sold by the State shall be subject to taxation from the date of such contract and the taxes assessed thereon shall be collected and enforced in like manner as against other land. Such land may be sold for delinquent taxes as other lands are sold, and the purchaser shall only acquire by virtue of such purchase, the right to be substituted in the place of such holder and owner of such contract of sale, as the assignee thereof; and upon the production to the Land Commissioner of the tax certificate given upon such tax sale, in case such land has not been redeemed, such tax purchaser shall have the right to have his name substituted in place of the original holder and owner of such contract, provided, however, that no substitution shall take place unless such tax purchaser makes payment of principal or interest then in default upon such contract of sale as the assignee thereof, and provided, further that no substitution shall take place until three years after the date of such tax certificate. No tax deed shall be issued upon any tax certificate procured, while the legal title of said land remains in the State of North Dakota.



In all cases where the rights of a purchaser, his heirs or assigns, become forfeited, by failing to pay the amounts required, such purchaser, his heirs and assigns, may, before the resale at public auction of the land described in such contract, redeem the land and premises by paying all past due deferred and interest payments, and all costs which have been incurred in addition thereto, together with interest on such sums at the rate of six per cent per annum, provided, however, that no redemption shall be made where the name of the tax purchaser has been substituted in place of the contract holder. In the event of a redemption of said land and premises, the Land Commissioner shall execute and deliver a new contract of sale to the purchaser, his heirs or assigns, said contract to be in the form prescribed by the Board.

The Board of University and School Lands is hereby authorized to make such rules and regulations, as shall be by it deemed necessary for the manner, place and time of payment of principal, deferred and interest payments, and for such other conduct of the business of selling and disposing of foreclosed land not in conflict with the provisions of law.

Approved March 11, 1931.

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## SCHOOLS

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### CHAPTER 235

(H. B. No. 128—Bishop by Request.)

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#### ADVERTISEMENT SCHOOL DISTRICT CONTRACTS

An Act to provide for the manner of letting contracts other than building contracts in all classes of school district and to repeal Sections 1259 and 1356, Compiled Laws of 1913.

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

§ 1. CONTRACTS LET TO LOWEST BIDDER.] No contract other than a building contract involving the expenditure of an aggregate amount greater than \$200.00 shall be entered into by any school district of any kind or class in this state except upon sealed proposals and to the lowest responsible bidder, after ten days notice by at least one publication in a legal newspaper in the county in which the school district or a portion thereof is located or if no newspaper is published in said county, then in a newspaper in an adjacent county.

§ 2. EXCEPTIONS.] No notice need be given nor proposals requested with reference to contracts for personal service of employees of the district, school text or reference books, or any article which is not for sale on the open market or any patented, copyrighted

or exclusively sold device or feature required to match articles already in use, or any patented, copyrighted or exclusively sold article of so distinctive a nature that to secure the specifications or features desired it is necessary that only one make of such article be purchased. The above exceptions shall be strictly construed.

§ 3. PENALTY.] Violation hereof shall be a misdemeanor on the part of every school director or board member participating therein.

§ 4. REPEAL.] Sections 1259 and 1356, Compiled Laws of 1913 and all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1931.

CHAPTER 236  
(S. B. No. 112—Fine.)

**ARBITRATION CONTROVERSIES AS TO SCHOOL FACILITIES**

An Act to amend and re-enact Section 1189 of the Compiled Laws of 1913; and to provide for arbitration of controversies as to the nature of school facilities provided upon the closing of a school for lack of pupils, and for the re-opening of such closed schools upon demand of the parents or guardians of four or more pupils residing within two and one-half miles of such school.

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

§ 1. AMENDMENT.] Section 1189 of the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 1189. The district board shall determine and fix the length of time the schools in the district shall be taught each year, and when each term of school shall begin and end. It shall so arrange such terms as to accommodate and furnish school privileges equally and equitably to pupils of all ages; provided, that every common school shall be kept in session for not less than seven months in each school year; and provided further that any school may be discontinued when the average attendance of pupils therein for ten consecutive days shall be less than four, and all contracts between school boards and teachers shall contain a provision that no compensation shall be received by such teacher from the date of such discontinuance, if proper and convenient school facilities be provided for the pupils therein in some other school; and such proper and convenient facilities must be provided for the pupils in the territory of such school until such time as the school may be re-opened by the board. In determining what shall constitute proper and convenient school facilities the school board shall consider the distance of such child from the nearest other school, and all surrounding circumstances, and may furnish transportation to such other school, or pay an extra allow-

ance of transportation, or furnish the equivalent thereof in tuition or lodging at some other public school. In case of dispute between the patron and the school board as to whether or not the school board has furnished or arranged to furnish adequate facilities, the matter may be submitted by the patron to a board of arbitration consisting of the county superintendent of schools, one arbitrator named by the patron, and one arbitrator named by the school board, and the determination of such arbitrators, after hearing shall be binding upon the school board. Provided further, that when any school which has been closed by reason of the terms of this section, upon demand in writing of the parents or guardians of four or more children of compulsory school age, all of whom reside within two and one-half miles of such school, the school board shall reopen such school for the next ensuing term following such demand. Such school may be reopened by the board at any time upon its own motion without any petition having been presented.

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

Approved March 9, 1931.

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## CHAPTER 237

(H. B. No. 118—Lunde by Request.)

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### BOND TREASURER DISTRICT SCHOOL FUNDS

**An Act to require all school district treasurers and city treasurers acting as custodians of school district funds to be bonded with the North Dakota State Bonding Fund or Corporate Surety Company; fixing the amount of such bonds; and providing for the manner of the payment of the premiums for such bonds.**

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

§ 1. Each school district treasurer of any kind or class of school district and each city treasurer who shall act as custodian of any school district funds, shall give bond to the school district conditioned for the honest and faithful discharge of the duties of his office and that he will safely keep and render a true account of all funds and property that shall come into his hands and pay and deliver the same according to law. Such bond shall be in an amount to be fixed by the board not less than the maximum amount of money that shall be subject to such treasurer's control at any one time. No personal sureties shall be accepted on any such bond, but all such bonds must be with the North Dakota State Bonding Fund, or with a corporate surety company authorized to do business within this state. Premiums for bonds of the North Dakota State Bonding Fund shall be paid by the school district in the manner provided by law, but no school district shall pay the premium upon any other bond

except for such bonds as are procured to replace bonds cancelled by the State Bonding Fund or to cover the excess over the amount carried in the State Bonding Fund.

§ 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1931.

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## CHAPTER 238

(S. B. No. 119—Marshall.)

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### SCHOOL BUSES

An Act providing for the letting of contracts to furnish vehicular transportation to school districts to the lowest bidders after notice requiring a bond for such contracts; fixing the qualifications of operators of such vehicles and the requirements of such vehicles; requiring the State Department of Public Instruction to prepare standard contracts therefor and fixing the terms thereof; and providing for the maintenance of discipline among the students while being transported therein.

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

§ 1. The school board or board of education of any school district which furnishes vehicular transportation to its schools or any of them, shall enter into written contracts for such transportation for the ensuing school year prior to the opening of school in each year; such board shall give at least ten days notice of the time and place of the letting of such contracts and shall call for sealed bids therefor by posting notices thereof in at least three of the most public places in such school district; such notices shall describe the route or routes to be covered by each contract, and shall state that the board reserves the right to reject any and all bids, and that a bond will be required of each successful bidder in the sum of five hundred dollars (\$500.00), conditioned for the faithful performance of the duties prescribed by the contract, and that the bids submitted must name the person or persons who shall operate the said vehicle and describe the nature of the vehicle.

§ 2. The School Board or Board of Education shall let the contracts, in each case, to the lowest responsible bidder who shall present a bond in the sum of five hundred dollars (\$500.00) to be approved by the board, for the faithful performance of the duties of the contract by the persons named therein, and who shall offer a vehicle for such use which, in the judgment of the board, is a safe, comfortable and suitable vehicle for the purpose, and who shall name a driver or drivers who, in the judgment of the board, are competent and responsible. No contract shall be entered into with any member of the board, but a member of the board may be designated in said contract as the operator of a vehicle.

§ 3. The State Department of Public Instruction shall prepare a standard form of contract for the furnishing of vehicular transportation, copies of which shall be distributed upon request to the various school districts of the state. Such contract shall provide for the operation of such vehicles by the person or persons named therein, and no person other than those named therein shall be permitted to operate such school bus without the written permission of the school board, or, in temporary emergencies until the next regular or special meeting, the written permission of the President of the Board. Such contract shall describe the vehicle or vehicles which are to be used for such transportation, and no other vehicle shall be permitted to be used except with the written permission of the school board, or in temporary emergencies until the next regular or special meeting, the written permission of the President of the Board. The contract shall describe the route or routes to be covered by the vehicles, which shall be fixed by the Board, and shall provide that in case it shall become necessary to change the said routes in any particulars, an equitable adjustment of the compensation shall be made by the school board and the holder of the contract, and in case of their failure to agree,, the matter shall be submitted to arbitration, one arbitrator to be appointed by the Board, one by the holder of the contract, and one by the two arbitrators so appointed, and the award of the said arbitrators shall adjust the compensation to meet the changed situation, and shall be binding upon both parties thereto. The contract shall be assignable only upon the written approval of the board.

§ 4. The operator or operators of such vehicles shall be under the supervision and direction of the Board, Superintendent, Principal and Teachers of such schools at all times while engaged in the performance of their duties, and the disciplinary authority of the schools shall exist over all children while being transported to and from the schools, and the operator shall be charged with their control and discipline while being so transported.

§ 5. All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 11, 1931.

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#### CHAPTER 239

(S. B. No. 129—Burkhart.)

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#### SCHOOL CENSUS

An Act to amend and re-enact Section 1195 of the Compiled Laws of North Dakota for 1913, relating to the taking of the school census.

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

§ 1. AMENDMENT.] Section 1195 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 1195. The school board shall cause an enumeration to be made between the first and twentieth days of June of each odd numbered year, of all unmarried persons of school age, being over six and under twenty-one, having their legal residence in the district, giving the names and ages of such persons and the names of parents and guardians having the care and custody of each; also the name and age of each deaf and dumb, blind, and feeble minded person between the ages of five and twenty-five years, residing in the district, including all such persons as may be too deaf or feeble minded to acquire an education in the common schools; also the name and age of each crippled person of any age; and the names and post-office addresses of the parents or guardians of all such persons. The enumeration shall be made upon and in accordance with the blanks furnished therefor by the County Superintendent, and shall be approved by the school board and returned to the County Superintendent prior to the fifteenth day of July.

§ 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 11, 1931.

CHAPTER 240  
(H. B. No. 127—Kadell.)

CERTIFICATION OF TEACHERS

An Act to amend and re-enact Sections 1359, 1360, 1361 and 1362, Compiled Laws of 1913, and to repeal Sections 1363, 1365, 1366, 1367, 1368 and 1369 of the Compiled Laws of 1913, relating to the certification of teachers.

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

§ 1. Section 1359, Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 1359. CLASSES OF CERTIFICATES NAMED.] There shall be four regular grades of certificates issued by the Superintendent of Public Instruction, viz:

- (1) The second grade elementary certificate.
- (2) The first grade elementary certificate.
- (3) The second grade professional certificate.
- (4) The first grade professional certificate.

These shall be issued only to persons of good moral character who fulfill all the requirements specified by law and by the rules and regulations of the State Superintendent of Public Instruction.

§ 2. Section 1360, Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 1360. SECOND GRADE ELEMENTARY CERTIFICATE.]

1. Issued on Examination: The second grade elementary certificate shall be granted to those persons over eighteen years of age who are found proficient in the following subjects: reading, arithmetic, language, and grammar, geography, United States history, physiology and hygiene (including physical culture), civil government, pedagogy, and any one of the following named subjects, music, drawing, agriculture, nature study, domestic science, manual training; provided, that the State Superintendent of Public Instruction in his discretion may specify which of the above subjects may be required. The proficiency of the applicants in spelling and writing will be determined from the papers submitted by the applicants. The second grade elementary certificate shall be valid for two years in any county in the State when recorded by the county superintendent of schools. It shall qualify the holder to teach in the public schools in this state up to and including the eighth grade except in such schools which under rules of standardization require higher qualifications. This certificate is not renewable other than by examination.

§ 3. Section 1361, Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 1361. FIRST GRADE ELEMENTARY CERTIFICATE.]

1. Issued on Examination: The first grade elementary certificate shall be granted to those persons who have had at least eighteen months experience in teaching and who in addition to those subjects required for a second grade elementary certificate, are found proficient in elements of psychology and four of the following subjects of secondary grade: Elementary algebra, plane geometry, physics, physical geography, botany, the elements of agriculture, nature study, manual training, domestic science and American literature. This certificate is valid for three years and it is not renewable other than by examination.

2. First grade elementary certificate issued upon high school diploma and the one year normal course. Graduates from high schools doing four years of standard work and in addition have completed the one-year teacher training course at a State Teachers College or Normal School or an equivalent course from outside the state, and who are at least 18 years of age, shall be granted a first grade elementary certificate. This certificate shall be valid for three years in any county in the State when recorded by the county superintendent of schools. It shall qualify the holder to teach in the public schools of this state up to and including the eighth grade in any school in the state except in such schools which under rules of standardization require higher qualifications and shall be renewable by not less than twelve quarter hours credit earned at a State Teachers College or Normal School.

§ 4. Section 1362, Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 1362. PROFESSIONAL CERTIFICATE ISSUED ON DIPLOMA.]

1. Second grade professional certificate.

(a) Diplomas granted to graduates of the standard course of a North Dakota Normal School or Teachers College and who are at least 18 years of age will be accredited by the State Department of Public Instruction as second grade professional certificates for three years; and if the holder has had eighteen months of successful experience in teaching in North Dakota, after such graduation, satisfactory evidence of the same having been filed with the State Superintendent of Public Instruction on blanks printed for that purpose, such diplomas will entitle the holders to second grade professional certificates valid for life.

(b) Diplomas from institutions whose curriculum is the equivalent of the standard curriculum of the State Normal Schools or Teachers Colleges will be recognized as a basis for granting a second grade professional certificate valid for three years, provided that the diploma implies at least two year courses or sixteen semester hours, of professional preparation for teaching. After the holder of such diploma has had eighteen months of successful experience in teaching in North Dakota after receiving the second grade professional certificate, satisfactory evidence of such experience having been filed with the State Superintendent of Public Instruction on blanks printed for that purpose, he shall be granted a second grade professional certificate valid for life.

(c) This certificate qualifies the holder to teach in any of the elementary grades of the public schools of the State and also such subjects as are generally taught in the ninth and tenth grades.

II. First grade professional certificate.

(a) Diplomas granted to graduates of Teachers College of the University of North Dakota, the School of Education of the North Dakota Agricultural College, and of the four year course of the State Teachers Colleges or Normal Schools shall be accredited by the State Department of Public Instruction as first grade professional certificates for three years; and when the holder has had eighteen months of successful experience in teaching in North Dakota, after such graduation, satisfactory evidence of the same having been filed with the State Superintendent of Public Instruction on blanks printed for that purpose, such diploma will entitle the holders to first grade professional certificates valid for life.

(b) Graduates of standard accredited colleges and universities within or without the state receiving the bachelor's degree will be granted first grade professional certificates valid for three years after presenting to the State Superintendent of Public Instruction proof of such graduation and other data, provided the diploma implies at least



two year courses, or sixteen semester hours of professional preparation for teaching, and when the holder has had eighteen months of successful experience in teaching in North Dakota after receiving such first grade professional certificate, satisfactory evidence of such experience having been filed with the Superintendent of Public Instruction on blanks printed for this purpose, the holder shall be entitled to a first grade professional certificate which shall be valid for life.

(c) The first grade professional certificate qualifies the holder to teach in any of the public schools of this State. The certificates issued by the State Superintendent of Public Instruction shall be valid in any county of the State when recorded by the county superintendent of schools.

§ 5. REPEAL.] Sections 1363, 1365, 1366, 1367, 1368 and 1369 of the Compiled Laws of 1913 and all Acts or parts of Acts in conflict herewith are hereby repealed.

§ 6. This Act shall not take effect until September 1st, 1931, and nothing in this Act shall be construed to affect the validity of any certificate theretofore issued.

Approved March 10, 1931.

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CHAPTER 241  
(H. B. No. 116—Butt by Request.)

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**DEFINING CONSOLIDATED SCHOOL**

An Act to define the term "Consolidated School" as used in School Transportation Statutes.

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

§ 1. Whenever the term "Consolidated School" is used in any statute either heretofore or hereinafter enacted with reference to the payment of transportation fees or the transporting of children to school, the same shall be deemed to include all schools which have become consolidated by an election upon the question, and all schools which employ not less than two teachers and serve not less than eighteen contiguous sections, without regard to the manner of their formation.

§ 2. All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 7, 1931.

CHAPTER 242  
(H. B. No. 121—Aljets.)

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DEFINING HIGH SCHOOLS, ETC.

*An Act to define High Schools and schools doing high school work.  
Be It Enacted by the Legislative Assembly of the State of North  
Dakota:*

§ 1. All six year high schools shall consist of grades seven to twelve inclusive and shall employ a minimum of three full time high school teachers. All five year high schools shall consist of grades eight to twelve inclusive and shall employ a minimum of three full time high school teachers. All four year high schools shall consist of grades nine to twelve inclusive and shall employ a minimum of two full time high school teachers. All three year high schools shall consist of grades ten to twelve inclusive and shall employ a minimum of two full time high school teachers. A principal or superintendent who teaches at least four classes shall be considered a full time high school teacher. All other schools with high school departments shall be considered as graded schools doing high school work and the minimum number of teachers required shall be determined by the Superintendent of Public Instruction. No high school work shall be taught in one room rural schools in which any of the grades from one to eight inclusive are taught, unless conditions are such that the County Superintendent shall consider it proper for one or more years of high school work to be taught. Four units of high school work shall be considered the minimum number for any year from grades nine to twelve inclusive. All unit courses except natural science courses shall be taught a minimum of forty minutes a day for at least five days a week for thirty-six weeks. The length of the periods of all natural science courses shall exceed forty minutes as shall be determined by the Superintendent of Public Instruction. In all four year high schools and all schools doing high school work in which are any or all grades nine to twelve, it must be possible for each grade to complete four units of work each year. The work which is done by pupils in any school which violates the provisions of this section shall not be accredited by the Department of Public Instruction through state high school examinations or otherwise.

§ 2. The content of all courses and the grade in which they are taught in all types of high schools and in the high school departments of all schools doing high school work shall follow the state course of study for high schools as outlined by the Superintendent of Public Instruction. No school which violates the provisions of this section shall be accredited by the Department of Public Instruction through state high school examinations or otherwise.

Approved March 7, 1931.

CHAPTER 243  
(H. B. No. 123—Wilson by Request.)

DISPOSITION SCHOOL DISTRICT TERRITORY ON  
DETACHMENT OR ATTACHMENT

An Act to require the board of county commissioners and county superintendent, and upon their failure to agree, the State Superintendent, to order special school districts which have heretofore attached territory of school districts and leaving therein property of an assessed valuation of less than \$100,000, to return territory previously taken therefrom to such school districts, or to attach the remaining portions of such school districts to such special school districts.

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

§ 1. In all cases in which any territory has heretofore been detached from a common school district in this State and attached to a special school district or special school districts, and the remaining portion of such common school district shall have, at the time this Act goes into effect, an assessed valuation of less than one hundred thousand dollars, the Board of County Commissioners and the County Superintendent of the County in which such school district is located; or if two or more counties are affected, the Boards of County Commissioners and County Superintendents of all counties affected, acting in a joint meeting; shall, upon petition in writing of two-thirds of the electors in such common school district, give at least ten days' notice in writing to the school boards of all school districts involved, and to the State Superintendent of Public Instruction, that they will, at a stated time and place, hold a hearing upon the question of the proper method of providing adequate school facilities for the pupils of such common school district. At such meeting representatives of all school districts involved shall be entitled to be heard, and the Board or Boards of County Commissioners and the County Superintendent or County Superintendents shall, after a full hearing, make such order providing for school facilities for such children as to them seems most just and equitable under all the facts and circumstances in the case. By such order they may require such special district or districts to return all or any part of such attached territory to such common school district, unless such special school district or districts consent to such territory being attached to it or them.

§ 2. The State Superintendent of Public Instruction or one of his subordinate officers designated by him, shall attend the hearing and give advice and counsel, and in case of a tie vote among the members of the Board or Boards of County Commissioners and County Superintendent or Superintendents, the State Superintendent or his designated representative, shall cast the deciding vote.

§ 3. All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 7, 1931.

**CHAPTER 244**  
**(S. B. No. 117—Brunsdale.)**

**DUTY SCHOOL BOARDS PAYMENT TRANSPORTATION FEES**

**An Act to require school boards to pay transportation fees or the equivalent thereof on or before the fifteenth day of July following the school year during which the same have been earned; to provide a remedy by mandamus for the payment thereof, and to limit the time in which action may be brought to enforce the same.**

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

§ 1. Whenever it is provided by law that fees for transportation of school children or the equivalent thereof in lodging or tuition, shall be paid, it shall be the mandatory duty of the school board to pay said transportation fees, or the equivalent thereof in lodging or tuition as provided by law, on or before the 15th day of July following the school year during which the same shall have been earned, without the necessity of any demand therefor, and for failure on the part of the school board to make such payments within the time above set forth, the parent or guardian of the children for whose attendance such payments are due shall have remedy in the courts by mandamus; provided that any action for the enforcement of such payment must be brought within one year after the cause of action accrued.

§ 2. All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 9, 1931.

**CHAPTER 245**  
**(H. B. No. 135—Correll.)**

**ESTABLISHMENT FREE KINDERGARTENS**

**An Act to amend and re-enact Section 1402 of the 1925 Supplement to the Compiled Laws of 1913 with reference to free kindergartens.**

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

§ 1. Section 1402 of the 1925 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 1402. The school board of any school district in this State may, at any annual school election, and upon petition of one-fifth of the electors of such school district, must, at the next annual school election, submit the question of the establishment of free kindergartens in connection with the public schools of such district for the instruction of resident children under the age of six years. If a majority of the votes cast upon the proposition favor the establishment of such kindergartens, the board shall establish such kindergartens, and shall maintain the same until such time as they may be discontinued as hereinafter provided. The board shall establish such course of

training, study and discipline and such other rules and regulations governing such kindergartens as it may deem best, and shall govern the same, so far as practicable, in the same manner and by the same officers as are provided by law for the government of other public schools. No person shall be employed as a teacher in such kindergartens who is not the holder of a valid certificate issued by the State Superintendent of Public Instruction entitling the holder to teach in the kindergartens of this state. The State Superintendent shall adopt rules governing the examination of kindergarten teachers, and shall furnish County Superintendents with examination questions and the examinations shall be held in the manner provided by law for the examinations of teachers in the public schools; provided that any person who shall have completed the course of training for kindergarten teachers at any of the State Normal Schools in this State shall, and, at the discretion of the State Superintendent of Public Instruction, those who have completed an equivalent course at other schools may, be granted a certificate to teach in the kindergartens of this state without examination.

After such kindergartens have been in operation under this or any other law for two years or more, the board at any annual election may, and upon petition of one-fifth of the electors of such school district, must, at the next ensuing annual school election, submit the question of the discontinuation of such kindergartens, and if a majority favor the discontinuation thereof, the same shall be discontinued, otherwise the same shall be continued in operation.

Approved March 7, 1931.

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CHAPTER 246  
(S. B. No. 209—Sperry.)

**JUNIOR COLLEGE WORK IN HIGH SCHOOLS**

An Act authorizing the establishment and maintenance in certain high schools of this state of a department of junior college work and providing for the supervision thereof.

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

§ 1. JUNIOR COLLEGE AUTHORIZED.] The Board of Education of any special school district in any city of the State having a population of more than ten thousand when authorized by a two-thirds vote of the electors voting thereon to do so, may establish and maintain, in conjunction with the high school of such district, a department of junior college work to consist of not more than two years of work beyond a four year high school course.

§ 2. ELECTION.] The establishment and maintenance of such department of junior college work shall be authorized only at an election held pursuant to a ten days' notice thereof stating that such proposition is to be voted upon thereat.

§ 3. SUPERVISION.] The State Board of Administration shall prepare and publish from time to time standards for junior colleges, provide for their inspection and recommend for accrediting such courses of study offered by them as may meet the standards prescribed.

§ 4. DUTIES OF BOARD OF EDUCATION.] The Board of Education of such school district on or before August 15th in each year, shall determine the rate of tuition, if any, required to be paid by all pupils attending such department, whether residents or not, of the district maintaining the same.

Approved March 11, 1931.

CHAPTER 247  
(S. B. No. 63—Brunsdale.)

PER CAPITA SCHOOL TAX

An Act to provide for a per capita tax of one dollar (\$1.00) for school purposes on all persons twenty-one (21) years of age or over who have resided in the state ninety (90) days prior to April 1st in each year; providing for the distribution of said tax and prescribing the duties of the county auditor, assessor and governing body of any city, village or township in connection therewith; repealing Sections 1961 to 1967 inclusive of the Compiled Laws of 1913, Subdivision D and Subdivision E of Section 4 of Chapter 235 of the Session Laws of North Dakota for the year 1929 and all acts and parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. PER CAPITA SCHOOL TAX.] The County Auditor shall each year levy a tax of one dollar (\$1.00) on each person twenty-one (21) years of age or over who on the first day of April in each year has resided in the State ninety (90) days or more, and no property shall be exempt from the collection of such tax by distress or otherwise. It shall be the duty of each assessor to prepare and file with the County Auditor a list of the names and addresses of all persons subject to the per capita tax herein required and upon the request of the County Auditor, the governing board of any city, village or township shall furnish him, or cause to be furnished, a list of the names and addresses of all persons residing therein subject to the levy herein required.

Such tax when collected shall be distributed to the several school corporations in the county in proportion to the number of children of school age residing within the territorial limits thereof.

§ 2. REPEAL.] That Sections 1961 to 1967 inclusive of the Compiled Laws of 1913 and Subdivisions D and E of Section 4 of Chapter 235 of the Session Laws of North Dakota for the year 1929 and all Acts and parts of Acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] An emergency is hereby declared to exist in that the road poll tax is an ancient and obsolete tax for highway purposes and subject to a large number of exemptions, and the present per capita school tax unfairly discriminates between voters and alien inhabitants and persons not qualified to vote; therefore, this Act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1931.

CHAPTER 248  
(H. B. No. 113—Lofthus.)

PETITION SCHOOL ORGANIZATION

An Act to amend and re-enact Section 1188 of the 1925 Supplement to the Compiled Laws of 1913 of North Dakota, relating to the organization of schools by petition.

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

§ 1. That Section 1188 of the 1925 Supplement to the Compiled Laws of 1913 of North Dakota be amended and re-enacted to read as follows:

§ 1188. SCHOOL TO BE ORGANIZED ON PETITION.] If a petition signed by the persons charged with the support and having the custody and care of nine or more children of the compulsory school age determined by Section 1342 of the Compiled Laws of the State of North Dakota for the year 1913 and Acts amendatory thereto, all of whom reside not less than two and one-half miles from the nearest school, is presented to the board, asking for the organization of a school for such children, the board shall organize such school and employ a teacher therefor, if a suitable room for such school can be leased or rented at some proper location not more than two and one-half miles distant from the residence of any one of such children, and if no suitable room for such school can be leased or rented, the board shall call a meeting of the voters of the district for the selection and purchase or erection of a School House, as provided for in Section 1185. If at such meeting no such site is selected or if it is not voted to erect or purchase a School House for such school, the board shall select and purchase a school site and erect, purchase or move thereon a School House at a cost of not more than twenty-five hundred dollars for such School House and furniture therefor; provided, that the provisions of this section shall not apply in any instances where schools have been consolidated in accordance with the provisions of Section 1190; and provided further that the school board shall not lease any premises for a longer period than one school year, and schools shall be conducted in such leased quarters for no longer than one school year, unless there remain in the territory within two and one-half miles of said school nine or more children of compulsory age all of whom reside more than two and one-half miles from any

other existing school in such district, in which case the lease may be continued from year to year so long as such conditions exist.

Approved March 10, 1931.

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CHAPTER 249  
(S. B. No. 114—Atkins.)

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QUALIFICATION ELECTION OFFICERS COMMON SCHOOL  
DISTRICTS

An Act to amend and re-enact Section 1156 of the Compiled Laws of North Dakota for 1913, relating to the qualifications of election officials in common school districts.

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

§ 1. AMENDMENT.] Section 1156 of the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 1156. At such annual election two of the directors of the School District shall act as judges and the Clerk of the District School Board and one other person chosen by the voters present at the opening of the polls shall act as clerks, provided that no person shall act as an election officer who is a candidate for election or re-election to any office at such election. The voters present at the opening of the polls shall choose a person to fill any vacancy caused by the absence or disqualification of any such officers to act as Judge or Clerk of such election. Before opening the polls each of the Judges and Clerks of Election shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will perform my duties as Judge or Clerk (as the case may be) according to law and the best of my ability." Such oath or affirmation may be administered by any officer authorized to administer oaths or by either of the Judges or Clerks. Any school officer elected and qualified under the provisions of this chapter is authorized and empowered to administer any oath or affirmation pertaining in any manner to school officers.

Approved March 11, 1931.

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CHAPTER 250  
(H. B. No. 117—W. M. Martin by Request.)

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REPORT SUPERINTENDENT PUBLIC INSTRUCTION

An Act to amend and re-enact Section 1117 of the Compiled Laws of 1913.

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

§ 1. AMENDMENT.] Section 1117 of the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:



§ 1117. One thousand copies of the report of the Superintendent of Public Instruction shall be printed biennially in the month of December preceding the session of the Legislative Assembly. One copy shall be furnished to each of the members of the Legislative Assembly, five to each state educational institution, one copy to each County Superintendent of the State, one copy to each state officer, one copy to each state and territorial superintendent and twenty copies shall be filed in the office of the Superintendent of Public Instruction and ten copies in the State Library. Copies may be distributed among the various colleges, universities and libraries in the United States.

§ 2. REPEAL.] All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 7, 1931.

#### CHAPTER 251

(H. B. No. 291—Committee on Delayed Bills.)

##### SCHOOL BUILDINGS USE OTHER PURPOSES

An Act granting power to school boards and boards of education to permit the use of school buildings for other than school purposes, when such use interferes in no way with school use and making restrictions and regulations covering such usage.

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

§ 1. WHEN SCHOOL BUILDINGS MAY BE USED FOR OTHER PURPOSES.] School Boards and Boards of Education having charge of any school buildings may permit the use thereof, when not occupied for school purposes, under careful restrictions, for any proper purpose, giving equal rights and privilege to all religious denominations and political parties, provided that such use shall not be at any cost to the district, and provided that furniture fastened to the building shall not be removed or unfastened. Public School or High School auditoriums and gymnasiums may be let for individual meetings, entertainments, or conventions of any kind, subject to such restrictions as the governing board of such districts shall prescribe, provided that such letting shall not interfere with the operation of the school or with school activities, and provided that a charge shall be made for such use, at least sufficient to cover any cost to the district for light, heat, janitor service, or other incidental expense connected therewith.

§ 2. EMERGENCY.] Whereas there is doubt as to the power of School Boards and Boards of Education to use such buildings for other purposes, this act is hereby declared to be an emergency measure, and to be in full force and effect from and after its passage and approval.

Approved March 9, 1931.

CHAPTER 252  
(S. B. No. 121—Putnam.)

SCHOOL DISTRICT BUILDING FUNDS

**An Act to amend and re-enact Subdivision 5 of Section 7 of Chapter 235, Session Laws of 1929, relating to the creation of building funds in school districts.**

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

§ 1. AMENDMENT.] Subdivision 5 of Section 7 of Chapter 235, Session Laws of 1929, is hereby amended and re-enacted to read as follows:

(5) The governing body of any school district may levy taxes annually for a school building fund, not in excess of one mill and not in excess of the limitations prescribed in this Section and Section 13, when authorized to do so by 60% of the electors voting upon the question at a regular or special election; provided, however, that in any school district having, at the time of making the annual levy no outstanding, unpaid certificates of indebtedness, and in which district the limitation of levy as prescribed by this Section has not been increased, the governing body of such school district may create such building fund by appropriating and setting up in its budget for such building fund an amount not in excess of twenty per cent of the current annual appropriation for all other purposes combined (exclusive of appropriations to pay interest and principal of the bonded debt) and not in excess of the limitations prescribed by law; provided that no such appropriation shall be made in any year in which the mill levy for all purposes including building funds is in excess of the mill levy provided by law. All revenues accruing from such levy, together with such amounts as may be realized for building purposes from all other sources, shall be placed in a separate fund, known as a School Building Fund, and shall be deposited and held by the same officer in the same manner and subject to all the requirements of law governing the sinking funds of such school district. Such funds shall be used solely and exclusively for the purpose of erecting new school buildings or additions to old school buildings, and shall be paid out by the custodian thereof only upon order of the School Board, signed by the President and Clerk of said school district, which order must recite upon its face the purpose for which such payment is made. Any moneys remaining in such fund after the completion of the payments for any school building project which has cost 75% or more of the amount in such building fund at the time of letting the contracts therefor, shall be returned to the general fund of the school district upon the order of the School Board. Upon the first day of June of each year, the custodian of such funds shall pay into the general fund of the school district any funds which have remained in such fund for a period of ten years or more, and such school district must compute same as a part of its cash on hand in making up its budget

for the ensuing year; provided that in determining what amounts have remained in said fund for ten years or more, the custodian shall consider that all payments which have been made out of the School Building Fund for building purposes have been paid from the funds first acquired. Any accumulations held by any school district at the time this act takes effect, either through building funds previously set up or through a surplus of revenue over expenses, may be placed into such building fund, and shall thereafter be subject to all the requirements above set forth. Every officer participating in the unlawful withdrawal of such building funds shall be guilty of a misdemeanor and shall be liable for the loss to such building fund on his official bond.

§ 2. All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 11, 1931.

CHAPTER 253  
(H. B. No. 137—Herman.)

**SELECTION, ETC., SCHOOL SITE AND BUILDING**

**An Act to amend and re-enact Section 1184 of the Compiled Laws of North Dakota for 1913.**

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

§ 1. AMENDMENT.] Section 1184 of the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 1184. Whenever in the judgment of the Board it is desirable or necessary to the welfare of the schools in the district, or to provide for the children therein proper school privileges, or whenever petitioned to do so by one-third of the voters of the district, the Board shall call an election of the voters in the District at some convenient time and place fixed by the Board, to vote upon the question of the selection, purchase, exchange or sale of a school site, or the erection, removal, purchase or sale of a school house. Said election shall be conducted and the votes canvassed in the same manner as at the annual election of school officers. If the question to be voted upon is the selection of a school site, the Board shall select one site to be described upon the ballot, and the voters shall express their preference either "For the selection of such site" or "Against the selection of such site". If the question to be voted upon is the removal of a school house, the Board shall select one site to be described upon the ballot, and the voters shall express their preference either "For the removal of said school house to such site" or "Against the removal of said school house to such site".

Approved March 7, 1931.

CHAPTER 254  
(S. B. No. 105—Brunsdale.)

**TEACHERS INSURANCE AND RETIREMENT FUND  
COMMISSION**

**An Act providing for the appointment of a commission to ascertain the condition of the Teachers Insurance and Retirement Fund, and to make recommendations regarding said fund to the Governor and the next Legislative Assembly, and providing for an appropriation from said fund to defray the expenses of said commission.**

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

§ 1. That a Commission of five persons, two of whom shall be members of the 22nd Legislative Assembly, shall be appointed by the Governor upon the taking effect of this Act. Said Commission shall make a thorough study and investigation of the Teachers Insurance and Retirement Fund and shall report its findings and recommendations to the Governor not later than the first day of November, 1932, to be by him transmitted to the next Legislative Assembly.

§ 2. APPROPRIATION.] There is hereby appropriated out of said Teachers Insurance and Retirement Fund, the sum of Five Thousand Dollars (\$5,000.00), or so much thereof as may be necessary to pay the actual and necessary expenses of said Commission and of any persons actually and necessarily employed by said Commission in performing its duties hereunder. Provided, however, that the members of said Commission shall personally not receive any per diem for their personal services.

Approved March 9, 1931.

CHAPTER 255  
(H. B. No. 95—Kneeland.)

**TEACHERS OATH OR AFFIRMATION**

**An Act prescribing the oath or affirmation to be taken and subscribed to by professors, instructors and teachers in public schools, colleges and universities of this state.**

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

§ 1. That every person who applies for a certificate or any renewal thereof, to teach in any of the public schools of this State, shall prescribe to the following oath or affirmation:

I solemnly swear (or affirm) that I will support the Constitution of the United States of America, the Constitution of the State of North Dakota, and the Laws of the United States and the State of North Dakota, and will, by precept and example, promote respect for the Flag and the Institutions of the United States and of the State of North Dakota, respect for law and order and undivided allegiance to the Government of the United States of America.

Such oath or affirmation shall be executed in duplicate and one copy thereof shall be filed with the State Superintendent of Public Instruction at the time when the application for a certificate is made, and the other copy shall be retained by the person who subscribed to such oath or affirmation. No certificate shall be issued unless such an oath shall have been filed.

§ 2. Every professor, instructor or teacher who shall be employed hereafter by any university, college or normal school in this State which is supported in whole or in part by public funds, shall, before entering upon the discharge of his or her duties subscribe to the oath or affirmation as prescribed in Section 1 of this Act, before some officer authorized by law to administer oaths. Such oath or affirmation shall be executed in duplicate and one copy thereof shall be filed with the Board of Administration and one copy shall be retained by the person who subscribed to such oath or affirmation.

§ 3. Any person who is a citizen or subject of any country other than the United States, and who is employed in any capacity as a professor, instructor or teacher in any university, college or normal school in this State, which is supported in whole or in part by public funds, shall before entering upon the discharge of his duties, subscribe to an oath to support the institutions and policies of the United States during the period of his sojourn within the State.

§ 4. The several Township Supervisors, School Directors and members of Boards of Education of this State are hereby authorized to administer the oath required by this Act to persons who apply for certificates to teach in the public schools of this State.

Approved March 10, 1931.

#### CHAPTER 256

(H. B. No. 74—Traynor and McManus.)

#### TUITION NON-RESIDENT PUPILS

An Act to amend and re-enact Section 1438a2 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota (Laws 1921, Chapter 107, Section 2), relating to tuition fees for non-resident pupils.

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

§ 1. AMENDMENT.] That Section 1438a2 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota (Laws 1921, Chapter 107, Section 2) be, and the same is, hereby amended and re-enacted to read as follows:

§ 1438a2. TUITION FEE, AMOUNT OF.] It shall be the duty of any School District not having a full four year high school course of at least fifteen (15) units to pay the tuition of pupils residing in such District that enter the high school department in any standardized graded school or standardized high school department in the State to complete such part of a full four year high school course of

at least fifteen (15) units as is not offered in the District in which the pupil resides. The School Board or Boards of Education of the District in which the standardized high school is located shall be entitled and is hereby authorized to charge a tuition fee for such non-resident pupil not to exceed two dollars per week for the time such non-resident pupils are in attendance and the School Board or Board of Education of the District in which the standardized graded school is located shall be entitled and is hereby authorized to charge a tuition fee for such non-resident pupils not to exceed two dollars per week for the time such non-resident pupils are enrolled.

Approved March 10, 1931.

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## SEEDS

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### CHAPTER 257

(H. B. No. 142—Anderson of Sargent.)

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#### SECURITY FOR SEED OR LOANS BY PUBLIC AGENCIES

**An Act to provide for security for seed furnished, or for funds loaned or advanced by public agencies for the purchase of seed.**

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

§ 1. Any County of this State or the United States of America, or any bureau, agency or department thereof, which shall furnish seed, or money for the purchase of seed, to any farmer within the State of North Dakota to be sown or planted upon lands owned, rented or contracted to be purchased, used, occupied or rented by such person, shall upon filing the statement provided for in the next section, have a lien upon the crop produced from the seed so furnished, or from the seed purchased with the money so furnished, to secure the purchase price of the said seed, or the payment of the money advanced for the purchase of such seed.

§ 2. Such lien shall be perfected by the filing in the office of the Register of Deeds of the County in which said seed is to be sown or planted, within thirty days after the furnishing thereof, of the statement in writing, verified by the oath of the officer having charge of the furnishing of such seed, which said statement shall show the kind and quantity of seed furnished, and its value, or the amount of money so advanced for the purchase of such seed, and the name of the person to whom the seed was furnished or the money advanced, and a description of the lands upon which the same is to be sown, or has been planted or sown.

§ 3. The lien given by this chapter shall, as to the crops covered thereby have priority over all the other liens and encumbrances, excepting only liens given by Chapter 97 of the Revised Codes of 1913.

§ 4. Whereas, an emergency exists, in that many farmers in this State are without seed or means to secure the same, and whereas the present state of the law makes the procedure to secure loans from the Federal Government for the purchase of seed complicated, slow, and in many cases impractical, this act shall be in full force and effect immediately upon its passage and approval by the Governor.

Approved March 4, 1931.

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## CHAPTER 258

(S. B. No. 70—Brunsdale and Brostuen.)

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### STATE SEED DEPARTMENT

An Act to establish a State Seed Department and provide for its operation and maintenance, and to establish regulations for the handling and sale of seed in general, and for the proper production, handling and sale of registered and certified seed, and providing an appropriation therefor, and repealing Sections 2898 to 2909, inclusive, Supplement to the Compiled Laws of 1913, Chapters 250 and 251 of the Session Laws of 1927, Chapter 221 of the Session Laws of 1929, and other acts in conflict with the provisions of this act.

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

§ 1. STATE SEED DEPARTMENT.] There is hereby established a department of the State to be known as the Seed Department of the State of North Dakota. Its headquarters, main offices, and other principal operating facilities and equipment shall be located at the North Dakota Agricultural College at Fargo, North Dakota. The State Seed Commissioner may, with the approval of the Board of Administration, locate and establish branch offices and laboratories at other locations in this State as in his judgment are necessary in order to properly and effectively carry out the provisions of this Act or other Acts in which he is charged with duty and responsibility.

§ 2. STATE SEED COMMISSIONER AND HIS AGENTS AND EMPLOYEES.] The Seed Department of the State of North Dakota, hereinbefore named, shall be directly managed and operated by the State Seed Commissioner, who shall hereinafter be referred to as the "Commissioner". The said Commissioner shall be appointed by, and his salary shall be fixed by the Board of Administration of the State of North Dakota, and he shall be subject to removal by the said Board at its pleasure. The Commissioner shall, subject to the approval and supervision of the Board of Administration, designate the necessary divisions of work, duties and operations for the said Department, as shall be provided by law or by regulations made in accordance with law; appoint and designate deputies to assist in handling and directing the work and affairs of such respective divisions and of other duties assigned to him by law; determine, select, and appoint analysts, inspectors and other necessary aids, employees, and agents; and fix

their salaries; provided that all such appointees shall be directly subject to the direction and supervision of the Commissioner.

§ 3. DEFINITION OF TERMS.] In this Act, unless otherwise specified or implied:

(a) The term "Seed" shall be construed to mean both the singular and the plural, as the case requires, and shall include the seeds of Canada blue grass, Kentucky blue grass, brome grass, slender and crested wheat grasses, timothy, red top, fescues, millets, orchard grass, oat grass, perennial rye grasses, Sudan grass, sorghum, alfalfa, alsike clover, the red clovers, crimson clover, sweet clover, white clover, Canada field peas, cowpeas, soy beans, vetches and other grasses, clovers and forage plants, buckwheat, rape, emmer, field corn, flax, barley, oats, rye, wheat and other cereals and field crops and the tubers of the white or Irish potato, which are distributed, sold, offered or exposed for sale, or as a sample representing any lot of seed elsewhere stored and for sale within this state, for sowing or planting purposes.

(b) The term "Person" shall be construed to mean both the singular and the plural as the case requires, and shall include individuals, copartnerships, companies, societies, associations, firms or corporations.

(c) The term "Label" or its plural form, when used as a noun, shall mean and include any tag, label, brand, or device attached to, or written, stamped, printed, or stenciled on any container of seed or supplied with any bulk lot of seed, purporting to set forth the kind, variety, grade, purity, quality or condition of such seed or any other information relating thereto, and when used as a verb, it shall mean the act or the fact of the use of the aforesaid labeling items and methods in connection with seed, and when used as an adjective, its descriptive meaning shall be interpreted from its use and meaning as a noun and verb as here prescribed.

(d) The term "Agent" or its plural form, when used in connection with the Commissioner shall mean and include the Commissioner's deputies, inspectors, analysts, specialists, and any other aids, agents, and employees of the Commissioner and the Seed Department, when they are acting officially for the Commissioner or performing any duty or duties as provided in this Act or in the regulations duly made thereunder.

§ 4. OFFICIAL SEAL.] The Commissioner may adopt and designate a design or mark which may be used and characterized as the official seal or identification for use in connection with the affairs and work of the Seed Department and of the Commissioner, and a copy or facsimile of said design, mark or seal shall be filed and recorded with the Secretary of State, and after written acknowledgment is made to the Commissioner from the office of the Secretary of State of such due filing, the said seal or design or mark, and the



privilege of its use, becomes the exclusive property and rights of the Commissioner and his deputies or authorized agents. The use of the said seal or design or mark in a manner other than as provided herein or by the Commissioner's regulations, shall constitute a violation of this Act.

§ 5. OFFICIAL LABORATORIES.] The Commissioner shall, subject to the approval and supervision of the Board of Administration, provide and maintain under his direction the necessary laboratories and other facilities, properly equipped to make analyses, tests, variety and disease determinations on seed and plants and to effect such other results and work as may be necessary to carry out the provisions of this Act, and for these purposes he may have the premises, space and equipment at the State Agricultural College which may be assigned to him by the Board of Administration. When a report or certificate relating to the findings and determinations made in a laboratory as herein provided for, is issued and signed by the Commissioner or a duly authorized agent, it shall be accepted as prima facie evidence of the statements therein contained.

The Commissioner may publish reports or explanatory material concerning seed or inspections, tests, analyses or other determinations made in accordance with the provisions of this Act, and amplify the same with material setting forth the value or condition of such seed stocks which are produced in this State or which North Dakota persons are interested in, and also publish lists of registered or certified seed.

§ 6. SAMPLING OF SEED.] The Commissioner shall have the authority to make rules and regulations governing the size and nature of the sample of seed or plants to be submitted to the laboratory, which will be necessary in order to make a reliable or official test, analysis, description, or a determination of grade, quality, or condition of disease infection on any lot of seed or any plants. The Commissioner may also prescribe the necessary manner of taking samples from given lots of seed in order to represent properly the various circumstances and purposes for which samples are taken from lots of seed, and in order to preserve the proper identity and to provide for proper delivery to the laboratory of said seed samples or plant specimens.

§ 7. PROVISIONS FOR FREE LABORATORY SERVICE.] Any person who is a resident of this State may, in accordance with regulations prescribed by the Commissioner, send a sample or samples of seed to the Commissioner for examination, analysis or test, but not to exceed three samples per year per person shall be examined and reported on free of charge. For all samples submitted by any resident person of the State in excess of the number herein stated, a fee of fifty cents shall be paid for each purity analysis and for each germination test. The fees for all tests and analyses for non-resident persons shall be one dollar for each germination test and one dollar and fifty cents

for each purity analysis. The charges for making the necessary tests on seed potatoes for registration and certification purposes shall be handled as hereinafter provided for registered and certified seed.

The Commissioner shall provide the facilities and services of the official laboratories to the use and purposes of the North Dakota Agricultural College on plans which he may make with it, subject to the approval of the Board of Administration.

§ 8. WEED SEEDS.] For the purposes of this Act, from and after the first day of July, A. D. 1931, the seeds of quack grass (*agropyron repens*), Canada thistle (*Carduus arvensis*), perennial sow thistle (*Sonchus arvensis*), Dodder (*Cuscuta species except coryli*), leafy spurge (*Euphorbia esula*), and Field bindweed (*Convolvulus arvensis*) shall be known and designated as "noxious weed seeds", and, unless otherwise provided in this Act, any lot of seed containing said noxious weed seeds shall be properly labeled as hereinafter provided to indicate their presence if the said noxious weed seeds are present singly or collectively as follows: (a) in excess of one seed in each twenty grams of timothy, red top, oat grass, brome grass, rye grass, orchard grass, Canada blue grass, Kentucky blue grass, fescues, alfalfa, sweet clover, alsike clover, red clovers, and all other small seeded grass and clovers not otherwise classified; (b) one in fifty grams of millets, rape, flax and other seeds of similar size not included in groups (a) or (c) of this section; (c) one in one hundred grams of wheat, oats, barley, rye, buckwheat, vetches, and other seeds as large or larger than wheat.

The term "Weed Seeds" as used in this Act shall be defined as the noxious weed seeds named in this section and all seeds not included in sub-division (a) of Section 3 of this Act.

§ 9. LABELING REQUIREMENTS OF SEED.] From and after the first day of July, A. D. 1931, every lot of seed in this State, except as otherwise provided in this Act, when in bulk, packages or any other containers, shall have affixed thereon, or attached thereto, in a conspicuous place on the exterior of each container, or be properly delivered with bulk sales or movements of said seed, a plainly written or printed label in the English language, stating:

(a) The commonly accepted name of such seed.

(b) The approximate percentage, by weight, of purity; meaning the freedom of such seed from inert matter and from other seed distinguishable by their appearance.

(c) The approximate total percentage, by weight, of "weed seeds", as defined in Section 8 of this Act.

(d) The name and approximate number per ounce or pound of each kind of "noxious weed seeds" which are present in excess of the tolerances specified in Section 8 of this Act.

(e) The approximate percentage of germination of such seed together with the month and year such germination was determined.

(f) The name of the county and state where grown, in the case of seed corn, and the name of the state where grown in the case of the seed of alfalfa and the clovers.

(g) The full name and address of the vendor of such seed.

The word "Approximate" as used in this Section and in Sections 10 and 11 of this Act shall be defined in the regulations under this Act by Commissioner who shall be guided by the "Rules and Methods of Testing" adopted and approved by the Association of Official Seed Analysts of North America.

§ 10. LABELING REQUIREMENTS OF MIXTURES.] From and after the first day of July, A. D. 1931, mixtures of seed which contain not more than two kinds of such seed in excess of five per cent by weight of each, when sold, offered or exposed for sale, shall have affixed thereon, or attached thereto, in a conspicuous place on the exterior of each container thereof, or be properly delivered with bulk sales or movements of said seed mixtures, a plainly written or printed label in the English language stating:

(a) That such seed is a mixture.

(b) The name and approximate percentage by weight of each kind of seed present in such mixture in excess of five per cent by weight of the total mixture.

(c) The approximate percentage by weight of "weed seeds", as defined in Section 8 of this Act.

(d) The name and approximate number per ounce or pound of each kind of "noxious weed seeds" which are present singly or collectively in excess of one seed in each fifteen grams of such mixture.

(e) The approximate percentage of germination of each kind of seed present in such mixture in excess of five per cent by weight, together with the month and year such germinations were determined.

(f) The name of the county and state where grown in the case of seed corn, and the name of the state where grown in the case of the seed of alfalfa and the clovers.

(g) The full name and address of the vendor of such mixture.

§ 11. LABELING REQUIREMENTS OF SPECIAL MIXTURES.] From and after the first day of July, A. D. 1931, special mixtures of seed except as specified in Section 10 of this Act, when sold, offered or exposed for sale, in bulk or any kind of containers, must have affixed thereon, or attached thereto, in a conspicuous place on the exterior of each container, or be properly delivered with bulk sales or movements of said seed mixtures, a plainly written or printed label in the English language, stating:

(a) That such seed is a mixture.

(b) The name of each kind of seed which is present in proportion of five per cent or more of the total mixture.

(c) The approximate total percentage by weight of weed seeds, as defined in Section 8 of this Act.

- (d) The approximate percentage by weight of inert matter.
- (e) The name and approximate number per ounce or pound of each kind of "noxious weed seeds" as defined in Section 8 of this Act, which are present singly or collectively in excess of one seed in each fifteen grams of such mixture.
- (f) The name of the county and state where each variety of seed corn that may be in the mixture, was grown.
- (g) The full name and address of the vendor of such mixture.

§ 12. EXEMPTIONS.] The provisions of Sections 9, 10 and 11 of this Act shall not be construed to apply to:

- (a) Potatoes, whether the same are sold or intended for food, manufacturing or planting purposes;
- (b) Seed which is possessed, sold, offered or exposed for sale or distributed or transported for food, feed or manufacturing purposes, and not for planting or sowing;
- (c) Seed which is sold, offered or transported to merchants to be recleaned before being sold, offered or distributed for sowing purposes;
- (d) Seed which is held in storage for the purpose of being cleaned or graded, or not possessed, stored, sold or offered for sale for seeding purposes.
- (e) Seeds which are sold or exchanged by farmers within any community and who are not engaged in commercial seed business.
- (f) Vegetable and flower seeds, as said kinds of seeds shall in no way be construed as seed for field seeding purposes when sold, offered or exposed for sale in packages or bulk lots of five pounds or less, net weight.

§ 13. REGISTERED AND CERTIFIED SEED.] It shall be the duty of the Commissioner, and he shall have authority as follows: (a) to establish a seed registration and certification system for North Dakota for which he shall make and promulgate rules and regulations governing application for service, acceptance of suitable seed stocks for the production of a registered, certified or inspected crop, field inspection, bin inspections, harvesting, handling, storage, cleaning or grading and preparation and handling for market; (b) to designate kinds, varieties, strains, the names thereof and establish the grades and standards of quality, degree of disease infection and amounts of any admixtures, foreign seeds or noxious weeds or other weed seeds that may be allowed in any lot or stock of seed, which may be or become eligible for Field Registration or for Registration or Certification of the seed crop; (c) to prescribe all labels, seals, certificates or similar statements that shall be used for, or in relation to any seed or the various kinds, grade and qualities of any seed grown, or handled, or stored, or held for sale, or sold or offered or exposed for sale in North Dakota as Registered, or Certified or Elite or Foundation seed or Inspected seed, and specify what written or printed words,

terms or figures such labels, seals, certificates or the containers of such seed shall bear; (d) to co-operate with the managers of any seed cleaning, seed treating or processing plants, or any commercially established seed firm, or any individual or person within or outside of the State that has proper facilities and equipment to store, clean, grade, process and otherwise handle seed which is eligible for Registration or Certification, for the purposes of handling and marketing Registered or Certified or Pedigreed or Elite or Foundation Seed or Inspected seed; (e) to cooperate and assist in the selection, testing and growing of seed for registration and certification purposes and in the arrangement for increase and distribution of improved and foundation seed stocks suitable for the production of registered and certified seed; (f) to fix and establish an equitable schedule of fees and charges which shall be uniform throughout the State for the inspecting, testing, analyzing, recording, and other work and duties incident to: the growing, handling, marketing, registering and certifying of North Dakota seed, and to collect all such fees and charges.

§ 14. LABELING AND REPRESENTING REGISTERED AND CERTIFIED SEED.] Any and all seed grown in North Dakota or grown elsewhere and transported into this state, which is sold, offered or exposed for sale, stored, transported, distributed or held with intent for sale or planting, must not be represented, advertised, labeled or characterized in any way, either orally or in writing, typing, printing, or marking, with or by use of the term "Registered" or "Certified" or "Pedigreed" or "Elite" or "Foundation Seed", or "Inspected" or any term or terms conveying a meaning substantially equivalent to the meaning of any of said terms, without the approval and authorization of the Commissioner, who is authorized to make such rules and regulations as he finds necessary in this connection for the proper regulation and protection of the pure seed growing and marketing industry, and for further defining said terms and clarifying the conditions for their use.

§ 15. COOPERATIVE FUNCTIONS.] The Commissioner may cooperate with the United States Department of Agriculture, State Department and Agricultural Colleges of any of the states, organized agricultural fairs or exhibitions or other organizations or persons in matters relating to the protection, inspection, analysis and testing, registering and certifying of North Dakota seed, and the promotion and protection of the interests and welfare of North Dakota seed growers and crop producers, and further to recognize and deal with growers, organizations or with institutions as affiliating agencies with the Commissioner in pure seed matters.

§ 16. COMMISSIONER'S DUTY TO EXAMINE AND PRIVILEGE OF FREE ACCESS.] It shall be the duty of the Commissioner, either by himself or his agents, to inspect, examine and make analysis of and test any seed sold, offered or exposed for sale, held or distributed within this State for sowing or planting purposes, at such time and place, and to such extent as he may determine.

For the purpose of carrying out and enforcing the provisions of this Act, and the regulations duly made thereunder, the Commissioner and his agents shall at all reasonable times have the right of free access upon and into the premises or structures controlled, owned or operated by any person who may be, or whose seed, or the seed he may be holding or storing or transporting, may be investigated or proceeded against, and upon and into any premises or structures or any kind of vehicle or conveyance where any seed may be located or in process of transportation within the State, when not prohibited by Interstate Commerce Laws and Regulations, for the purpose of inspecting, examining and sampling any seed or seed plants.

It shall be the duty of any and all persons involved in any way in the handling, transportation, storage, buying or selling of seed to cooperate with the Commissioner and his agents and render all possible assistance to aid the Commissioner and his agents in the carrying out and enforcement of the provisions of this Act and the regulations duly made thereunder.

It shall be the duty of the Commissioner, in his discretion, to publish or cause to be published, the results of the examinations, analyses and tests of any samples of seed or mixtures of seed, together with any information he may deem advisable.

§ 17. MISLABELING.] It shall be unlawful for any person knowingly either for himself or while acting as agent or servant for any other person to sell, consign for sale, offer or expose for sale, have in possession or storage with intent for sale, or to deliver or distribute within the State or to convey or to cause to be conveyed out of the State, any seed which shall be mislabeled within the meaning of this Act or the regulations made thereunder, or which is falsely labeled, represented or advertised in any respect. In the event of the shipment into this State, from any point outside thereof, of any seed it shall be the duty of the purchaser or vendor or any person receiving such seed to have the same labeled in accordance with and conforming to the requirements of this Act: Provided, however, that certain standardized grades and labeling of seed in use elsewhere may be permitted by the Commissioner, in connection with shipments of seed into this State from points outside thereof, in lieu of the labeling provided for in this Act: Provided, further, that the provisions of this Act shall not apply to any common carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a common carrier; and provided further, that no person, excepting common carriers as herein provided, shall knowingly distribute, sell, offer, expose or have in possession with intent for sale for sowing or planting purposes, any seed included in Section 3, subsection (a) of this Act, or any garden vegetable seed or any other kind or nature of seed that is falsely represented by labeling or in any form of advertising or in any other way as to quality, condition, grade, viability, purity, character, nature, variety or any other description.

§ 18. COMMISSIONER'S AUTHORITY TO MAKE RULES AND REGULATIONS.] It shall be the duty of the Commissioner, and he shall have the authority to from time to time adopt, publish, and amend uniform rules and regulations, not inconsistent with the provisions of this Act, for carrying out the purposes and enforcing the provisions of this Act, and to alter or to suspend such rules, regulations, and definitions from time to time as he finds such actions necessary. Such rules, regulations and definitions of terms and conditions shall be approved by the Attorney General of the State as to form and legality and shall be filed in the office of the Commissioner, and shall be published once in a newspaper of general circulation to be designated by the Commissioner, in the city where the Commissioner's main office is located, and such rules, regulations, and definitions shall have the force and effect of law. An affidavit of such publication setting forth the rules, regulations, definitions or amendments thereto as published, shall be made by the publisher of such newspaper or by his agent or the newspaper manager, and shall be filed in the office of the Commissioner. Such affidavits, or copies thereof, certified by the Commissioner, shall be prima facie evidence of the fact therein contained and of the due adoption and publication of such rules, regulations, definitions, or amendments.

§ 19. ENFORCEMENT AND PROSECUTION.] The Commissioner shall be charged with the enforcement of the provisions of this Act and of the regulations duly made thereunder. Upon complaint made by the Commissioner alleging violation of this Act or of the regulations duly made thereunder, it shall be the duty of the Attorney General and of the States Attorney in the county where the case arises, to cause appropriate legal proceedings to be commenced and prosecuted in the proper courts without delay for the enforcement of the penalties as provided in this Act: Provided, however, that no prosecution under this Act shall be instituted except in the manner following: when the Commissioner is of the opinion that a violation of this Act or the regulations duly made thereunder, exists, he shall give notice to the person involved, designating a time and place for a hearing. Said hearing shall be private and the person so involved shall have the right to introduce evidence in person, by agent or attorney. If, after said hearing, or without such hearing in the event said person fails or refuses to appear in any manner, the Commissioner decides that the evidence warrants prosecution, he shall proceed as herein provided.

Any seed when condemned by the court as mislabeled or misrepresented within the meaning of this Act, shall be liable to be seized for confiscation by a process of libel for condemnation, and shall be disposed of in the discretion of the court; (a) by sale; or (b) by delivery to the owner thereof upon payment of the legal costs and charges, and the execution and delivery of a good and sufficient bond to the effect that such seed will not be sold, distributed or disposed of contrary to the provisions of this Act or the regulations duly made

thereunder ; or (c) by destruction. If said seed is disposed of by sale, the proceeds of the sale, less the legal costs and charges, shall be paid to the State Treasurer and credited to the Seed Department fund as miscellaneous receipts.

Either party in such libel cases may demand trial by jury on any issue of fact if the value of the controversy exceeds \$20.00, and facts so tried shall not be re-examined other than in accordance with the rules of law.

The Commissioner and his agents are hereby authorized and empowered to administer oaths and to take testimony for any purpose relating to carrying out the provisions of this Act.

§ 20. PENALTY FOR VIOLATION.] Any person who violates any of the provisions of, or who fails or refuses to comply with any of the requirements of this Act, or of the regulations duly made thereunder, or who wilfully interferes with the Commissioner or any of his agents in the execution or on account of the execution of his or their duties under this Act, and the regulations duly made thereunder, shall on conviction be fined not more than \$100.00 and costs of prosecution for the first offense, nor more than \$500.00 and costs of prosecution for each subsequent offense.

§ 21. EFFECT OF PARTIAL INVALIDITY.] If any provision in a clause or section of this Act, or the application thereof to any person or circumstances, is held invalid, the validity of the remaining portions of the clause or section and of the application of such provisions to other persons or circumstances shall not be affected thereby.

§ 22. APPROPRIATION.] For the purposes of carrying out and administering the provisions of this Act and the regulations duly made thereunder and to pay the salaries and wages each month of the appointees and employees under this Act, and other expenses and costs, there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of \$60,000.00, or as much thereof as may be necessary, for the biennial period beginning July 1, A. D. 1931 ; provided, however, that said sum of money shall be available for use on and after the date that this Act shall become effective. This appropriation shall be held and retained in the custody of the State Treasurer and placed in and to the credit of the Seed Department fund, and shall be disbursed upon order of the Commissioner by the use of itemized and duly verified vouchers and with the approval of the Board of Administration.

§ 23. DISPOSITION OF FEES AND OTHER COLLECTIONS.] All moneys arising from the collection of fees and other charges under the provisions of this Act shall be placed by the Commissioner, with the State Treasurer and be credited to the Seed Department revolving fund, and shall be disbursed upon order of the Commissioner and with the approval of the Board of Administration.



§ 24. REPEAL.] Sections 2898 and 2909, inclusive, Supplement to the Compiled Laws of 1913, Chapters 250 and 251 of the Session Laws of 1927, Chapter 221 of the Session Laws of 1929, and all other Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

§ 25. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1931.

## SOLDIERS CLAIMS

### CHAPTER 259

(S. B. No. 78—Hamilton and Sperry.)

#### CLAIMS AGAINST RETURNED SOLDIER'S FUND

An Act authorizing the Adjutant General to file as claims against the Returned Soldier's Fund, applications received subsequent to July 1, 1927.

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

§ 1. The Adjutant General is hereby authorized to file as claims against the Returned Soldier's Fund, and proceed to carry the same to a final conclusion, as if the same had been filed prior to July 1, 1927, applications of those returned soldiers who were residents of North Dakota at the date of their draft, enlistment or induction into the service of the United States, which through error, misapprehension or neglect were not so filed prior to July 1, 1927.

§ 2. EMERGENCY.] This act is hereby declared an emergency measure and shall take effect on and after its passage and approval.

Approved March 10, 1931.

## STANDARD TIME

### CHAPTER 260

(S. B. No. 4—Martin.)

#### REPEAL STANDARD TIME

An Act to repeal Chapter 223 of the Session Laws of North Dakota for the year 1929, relating to the establishment of a standard time for the State of North Dakota.

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

§ 1. REPEAL.] That Chapter 223 of the Session Laws of the State of North Dakota for the year 1929, be, and the same is hereby repealed.

§ 2. This act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved January 31, 1931.

## STATE AUDITOR

### CHAPTER 261

(S. B. No. 205—Gronvold.)

#### POWERS AND DUTIES STATE AUDITOR

An Act amending Section 132, Compiled Laws of North Dakota for the year 1913, prescribing the powers and duties of the State Auditor.

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

§ 1. AMENDMENT.] Section 132, Compiled Laws of North Dakota for the year 1913, is hereby amended and re-enacted to read as follows:

§ 132. It is the duty of the State Auditor:

1. To superintend the fiscal affairs of the state.
2. To report to the Governor on or before the fifteenth day of November next preceding each regular session of the Legislative Assembly a statement of the funds of the state, its revenues, of the public expenditures during the two preceding fiscal years, together with a detailed estimate of the expenditures to be defrayed from the treasury for the two ensuing fiscal years, specifying therein each object of expenditure, and distinguishing between such as are provided for by permanent or temporary appropriation and such as must be provided for by a new statute and suggesting the means from which such expenditures are to be defrayed.
3. To accompany his biennial report with tabular statements showing the amount of each appropriation for the two preceding fiscal years, the amount expended and the balance, if any; also showing the amount of revenue chargeable to each county for such years, the amount paid and the amount unpaid or due therefrom.
4. When requested, to give information in writing to either house of the Legislative Assembly, relating to the fiscal affairs of the state or to the administration of his office.
5. To suggest measures for the improvement and management of the public revenue.
6. To keep and state all accounts in which the state is interested.
7. To keep an account of all warrants drawn upon the Treasurer, and a separate account under the head of each specific appropriation, showing at all times the unexpended balance of such appropriation.
8. To keep an account between the State and State Treasurer, and charge the State Treasurer therein with the balance in the

treasury when he came into office and with all moneys received by him and credit him with all warrants drawn on and paid by him.

9. To keep a registry of warrants showing the fund upon which they are drawn, the number, in whose favor, for what issued, the appropriation applicable to the payment thereof, when the liability accrued, and a receipt from the person to whom the warrant is delivered, and to register all orders or certificates drawn upon the State Treasurer.

10. To audit all claims against the state, the payment of which is authorized by law.

11. To examine and settle the accounts of all persons indebted to the state, and certify the amount to the Treasurer, and upon presentation and filing of the Treasurer's receipts therefor to give such person a release, and charge the Treasurer with such amount.

12. To require, in his discretion, any person presenting an account for settlement to be sworn before him, and to answer orally or in writing as to any facts relating thereto.

13. To require all persons who have received any moneys belonging to the state, and who have not accounted therefor to settle their accounts.

14. To inspect, in his discretion, the books of any person charged with the receipt, safe keeping or disbursement of public moneys.

15. To require at such times and in such forms as he may designate all persons, who have received money or securities or who have had the disposition or management of any property of the state of which an account is kept in his office, to render statements thereof to him, and all such persons must render such statements when so required by said auditor.

16. To direct and superintend the collection of all moneys due the state and institute suits in the name of the state for all official delinquencies in relation to the assessment, collection and payment of the revenue, and against persons who by any means have become possessed of public moneys or property and who fail or neglect to pay for or deliver the same, and against all persons indebted to the state.

17. To draw warrants on the State Treasurer for the payment of money directed by law to be paid out of the treasury; which warrants shall be numbered consecutively in the order in which they are drawn; but no warrant shall be drawn unless authorized by law, nor unless there are funds in the treasury applicable to the payment thereof to meet the same; provided, that in case of emergency, and in anticipation of taxes already levied and in process of collection, the Auditor, with the advice and consent of the State Auditing Board, may issue warrants in payment of duly authorized vouchers which warrants so issued shall be paid by the State Treasurer out of any funds in his hands other than sinking funds and funds, the use of which is limited by the Constitution of this state. Every warrant

must be drawn upon the fund out of which it is payable and specify for what it is drawn and when the liability accrued.

18. To furnish the State Treasurer monthly with a list of all warrants drawn upon the treasury, specifying the amount and number of each warrant and the name of the person in whose favor it is drawn.

19. To authenticate with his official seal all drafts and warrants drawn by him and all copies of papers issued from his office.

20. To discharge the duties of a member of the following state boards: Equalization; State Canvassers; Trustees of Public Property; University and School Lands; State Auditing Board; State Historical Society; State Board of Auditors, and Commissioners of Public Printing, and to perform such other duties as are or may be prescribed by law.

Approved March 11, 1931.

## STATE DEPARTMENT OF HEALTH

CHAPTER 262  
(S. B. No. 108—Stucke.)

### ACCEPTANCE OF FUNDS BY STATE HEALTH DEPARTMENT

An Act to amend and re-enact Section 396d6 Supplement to the Compiled Laws of 1913, authorizing the State Department of Health to accept funds from various sources for public health work and prescribing conditions of acceptance.

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

§ 1. AMENDMENT.] Section 396d6 Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 396d6. The State Department of Health shall be authorized to accept funds from cities, counties, the Federal Government, private organizations and individuals for infancy and maternal hygiene, and other public health work and to match the same from any unexpended portion of their budget, in accordance with specifications agreed to or required by Congressional Act when approved by the Governor of the State. All such work shall be done by the State Department of Health.

Approved March 6, 1931.

## STATE HOSPITAL FOR INSANE

### CHAPTER 263

(S. B. No. 167—Gronvold.)

**INVESTIGATION SITES FOR INSANE HOSPITAL NEAR RUGBY**  
An Act directing the State Board of Administration to investigate sites suitable for public purposes.

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

§ 1. The State Board of Administration is hereby directed to investigate proposed sites suitable for Insane Hospital purposes at or near the City of Rugby in the County of Pierce, and submit their findings to the next session of the Legislature. Said State Board of Administration may accept options on tracts of land in parcels of not less than 320 or more than 640 acres; providing no expense, or obligation shall be incurred on the part of the state.

Approved March 11, 1931.

### CHAPTER 264

(S. B. No. 122—Eddy.)

### OFFICERS STATE HOSPITAL FOR THE INSANE

An Act to amend and re-enact Chapter 166 of the Session Laws of 1927.

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

§ 1. AMENDMENT.] That Chapter 166 of the Session Laws of the State of North Dakota for the year 1927 is hereby amended and re-enacted to read as follows:

Chapter 166. The Board of Administration shall have general control and management of the hospital, and shall make all by-laws, rules and regulations necessary for the government of the same not inconsistent with the laws of the state, and shall appoint a Superintendent, who must be a physician of acknowledged skill and ability and a graduate of a reputable medical college; and the Superintendent shall appoint an assistant superintendent, and one or more other assistant physicians, each of whom shall possess like qualifications, and who shall be styled the resident officers of the hospital and shall reside therein and be governed by the laws and by-laws of the institution. The maximum salary of the Superintendent shall be four thousand dollars (\$4,000.00) per annum; and such salary and the salaries of the assistant superintendent and of the assistant physicians, shall be fixed by the Board of Administration, subject to the approval of the Governor; provided, however, that the salary of the assistant superintendent shall not exceed the sum of \$3,600.00 per annum.

§ 2. All acts and parts of acts in conflict herewith are hereby expressly repealed.

Approved March 11, 1931.

## STATE INSTITUTIONS

### CHAPTER 265

(H. B. No. 301—Traynor.)

#### BOARD OF ADMINISTRATION

An Act amending Section 283b1 of the Supplement to the Compiled Laws of 1913, relating to Board of Administration for the general supervision and administration of all state penal, charitable and educational institutions, and the general supervision of the public schools of the state, defining its powers and duties, making an appropriation, and repealing all acts and parts of acts in conflict herewith.

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

§ 1. AMENDMENT.] Section 283b1 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 283b1. CREATION OF BOARD.] There is hereby created the "Board of Administration" for the general supervision and administration of all State Penal, Charitable and Educational Institutions of the state. For the exercise of these duties of general supervision the presidents or heads of the several state institutions shall be responsible to the Board. Said Board shall consist of five members, the State Superintendent of Public Instruction, and the Commissioner of Agriculture and Labor who shall be ex-officio members of said Board; and three other members who shall be appointed by the Governor within ten days after this act takes effect. The members so appointed shall hold their office as follows: One until July 1, 1921, one until July 1, 1923, and one until July 1, 1925, as designated by the Governor; and thereafter the appointment of the members of said Board shall be for a term of six years and until their successors are appointed and qualified; provided however, that from and after January 1st, 1932, the Commissioner of Agriculture and Labor and the Superintendent of Public Instruction shall cease to be members of the said Board of Administration, and such Board shall be composed of the three appointive members only; provided, further that the Governor may remove any appointive member of said Board for cause.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1931.

## CHAPTER 266

(S. B. No. 247—Delayed Bills Committee.)

**PAYMENT KNUTE BAKKEN JUDGMENT BY N. D. MILL AND ELEVATOR ASSOCIATION**

An Act to authorize the North Dakota Mill and Elevator Association to pay that certain judgment entered in the District Court of Burleigh County, North Dakota, in the case of Knute Bakken vs. State of North Dakota, doing business as the North Dakota Mill and Elevator Association.

*Whereas*, a judgment was recovered in the District Court of Burleigh County, North Dakota, in the case of Knute Bakken vs. State of North Dakota, doing business as the North Dakota Mill and Elevator Association in the sum of \$12,000 damages and costs on account of personal injuries sustained by the said Knute Bakken on December 22, 1920, during the operation of the Drake Mill by the State of North Dakota; and

*Whereas*, such judgment was during the month of January, 1931, affirmed by the Supreme Court of North Dakota, and as finally entered, amounts to the sum of \$13,132.40, including damages, interests and costs; and

*Whereas*, the North Dakota Mill and Elevator Association is now confined by law to the operation of the State Mill and Elevator at Grand Forks, North Dakota, and it is doubtful whether the assets of such Association as now organized may be applied to the payment of any judgment resulting from the past operations of the Drake Mill without specific authorization by the Legislature; therefore

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

§ 1. That the North Dakota Mill and Elevator Association is hereby authorized to pay out of the reserve funds of said Association that certain judgment described in the preamble of this act in the amount of \$13,132.40.

Approved March 11, 1931.

## CHAPTER 267

(H. B. No. 286—Committee on Delayed Bills.)

**PROHIBITING SALE, ETC., DAIRY PRODUCTS AND USE OF OLEOMARGARINE AND SEPARATED MILK AT STATE INSTITUTIONS**

An Act Regulating the sale and exchange, and the advertising of dairy products produced at any state institution; prohibiting the use of oleomargarine and regulating the use of separated milk in any such institution; and providing penalties.

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

§ 1. SALES OF DAIRY PRODUCTS.] It is hereby declared unlawful for any officer, agent or employee of any State Institution,

other than the Agricultural College to offer for sale, or sell or exchange, to or with any private consumer thereof, in competition with any private producer of such product, any dairy product produced at any such State Institution.

§ 2. ADVERTISING INSTITUTIONAL DAIRY PRODUCTS PROHIBITED.] It is hereby declared unlawful for any person, firm or corporation, to advertise any dairy product marketed by such person, firm or corporation, as the product of any state institution or of any state owned herd.

§ 3. SERVING OLEOMARGARINE OR SEPARATED MILK PROHIBITED.] It shall hereafter be unlawful for any officer, agent or employee of any State Institution, to serve to any inmate thereof, any oleomargarine or substitute for butter; or to serve as a beverage, to any inmate thereof under the age of sixteen years, any separated milk, except upon the order or prescription of a physician.

§ 4. PENALTY.] Any officer, agent or employee of any State Institution, who shall wilfully or knowingly violate any of the provisions of Section 1 or Section 3 hereof, shall be guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for not to exceed thirty days or by a fine of not to exceed one hundred dollars, or by both such fine and imprisonment, and shall forthwith be discharged or removed from office by the Board of Administration. Any person, firm or corporation; and any agent, employee or member of a co-partnership; and any agent, employee or officer of a corporation, who shall violate the provisions of Section 2 hereof, shall be guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not to exceed thirty days, or by a fine of not to exceed one hundred dollars, or by both such fine and imprisonment.

Approved March 11, 1931.

#### CHAPTER 268

(S. B. No. 88—Atkins and Sperry.)

#### RE-ESTABLISHMENT NORTH DAKOTA MILL AND ELEVATOR ASSOCIATION

An Act re-establishing the North Dakota Mill and Elevator Association, defining its powers and duties, providing for the establishment of a North Dakota Mill and Elevator Commission, defining its powers and duties in respect to the management, operation and control of the state owned mill and elevator located at Grand Forks, North Dakota, and the conduct of all business relating thereto, and repealing Chapter 163 of the Session Laws of North Dakota for 1925, and all other acts in conflict herewith.

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

§ 1. RE-ESTABLISHING NORTH DAKOTA MILL AND ELEVATOR ASSOCIATION.] For the purpose of encouraging and promoting agri-



culture, the State of North Dakota shall engage in the business of handling grain, and in the manufacture and sale of flour and its by-products, and for that purpose shall operate and conduct the state owned mill and elevator located at Grand Forks, North Dakota, and heretofore created by law, under the name of "North Dakota Mill and Elevator Association," hereinafter called the "Association."

§ 2. CONTRACTS RECOGNIZED.] All valid contracts entered into by the North Dakota Mill and Elevator Association, as provided for in Chapter 152 of the Session Laws of North Dakota for the year 1919, Chapter 295 of the Session Laws of North Dakota for the year 1923, and Chapter 163 of the Session Laws of North Dakota for 1925, known as the North Dakota Mill and Elevator Association Act, are hereby expressly recognized, and any rights or liabilities accrued in favor of, or against, said North Dakota Mill and Elevator Association, as provided for in Chapter 152, of the Laws of 1919, Chapter 295 of the Laws of 1923, and Chapter 163 of the Session Laws of North Dakota for 1925, aforesaid, shall be deemed the acts of the North Dakota Mill and Elevator Association, as created by this act, and the title to all property acquired in the name of the State of North Dakota, doing business as the North Dakota Mill and Elevator Association as provided for in Chapter 162 of the Laws of 1919, Chapter 295 of the Laws of 1923, and Chapter 163 of the Session Laws of North Dakota for 1925, aforesaid, shall remain vested in the State of North Dakota, doing business as the North Dakota Mill and Elevator Association under this act.

§ 3. POWERS AND DUTIES.]

(1) Except as otherwise provided by law, the Association acting by and through its officers and agents hereinafter provided, shall have the power to make contracts, to sue and to be sued, to purchase, sell and convey real and personal property as may be necessary to carry out the purposes of this act; to locate and maintain the places of business of the Association; and to make and enforce orders, rules and regulations and by-laws, for the transaction of its business. The business of the Association, in addition to other matters herein specified, may include anything that any private individual or corporation may lawfully do in conducting a similar business, except as herein restricted.

(2) The Association may by purchase or lease acquire all the necessary property and property rights, and may purchase, lease or repair all necessary buildings or other structures and may purchase, lease, construct or otherwise acquire offices, machinery, equipment and all things necessary, convenient or incidental to the manufacture of flour and its by-products, and for the storage, sale and disposal of grains, flour and its by-products, and may dispose of the same; provided, that, until otherwise provided by law, the Association shall not lease, sell or convey to any person or persons the mill and elevator now located near the City of Grand Forks, North Dakota.

(3) The Association shall have power to purchase grain and to resell such part thereof as may not be needed in the operation of the mill, and to act as agent for any party who buys or sells grain or farm products; provided, it shall purchase grain from outside the state only when such grain can be purchased, milled and marketed at a cost less than grain of like quality available within the state may be purchased, milled and marketed; and provided, further, that the Association shall not import grain from any foreign country, in bond for milling purposes, or any grain from any foreign country for the purpose of milling and exporting the products thereof under the drawback provision of the United States tariff act, except when necessary, in the opinion of the General Manager to insure the efficient operation of its mill.

(4) All grain, flour, feed, millstuffs and produce belonging to the Association, or for which the Association is responsible to the owners, and all buildings, and machinery belonging to the Association, shall be fully insured, against loss by fire in the Fire and Tornado Fund of the State of North Dakota, or in fire insurance companies authorized to do business in this state.

(5) Except as hereinafter provided, the business of the Association shall be limited to the operation and management of the mill and elevator now owned by said Association and located at the City of Grand Forks, North Dakota, but it shall have power to establish and maintain purchasing and selling agencies in this and other states, and in Canada and in foreign countries.

§ 4. MANNER OF CONDUCTING BUSINESS.] All business of the Association shall be conducted under the name of the North Dakota Mill and Elevator Association. Title to property pertaining to the operation of the Association shall be obtained and conveyed in the name of the State of North Dakota, doing business as the North Dakota Mill and Elevator Association. Deeds and other instruments conveying or affecting real property shall be executed under the authority of the Industrial Commission and shall be signed by two members of the Industrial Commission, of whom the Governor shall be one, and the seal of the Association shall be affixed thereto.

§ 5. ESTABLISHING NORTH DAKOTA MILL AND ELEVATOR COMMISSION.] There is hereby created a North Dakota Mill and Elevator Commission, which shall, in behalf of the State of North Dakota, manage, operate and direct the business affairs of said Association, and shall hereafter be called the "Commission." Such Commission shall consist of three persons who shall be appointed by the Governor. The members of the first Commission shall be appointed for the following terms: One member thereof, whose term shall expire July 1st, 1932, one member thereof, whose term shall expire July 1st, 1933, and one member thereof, whose term shall expire July 1st, 1934, and thereafter each member shall be

appointed for a term of three years, or until his successor is appointed and qualified.

Each member of such Commission shall, before entering upon the duties of his office, make and file the oath required of state officers and shall be bonded in the State Bonding Fund in the penal sum of \$10,000, conditioned upon the faithful performance of his duties as such Commissioner.

Each member of said Commission shall be entitled to receive the sum of \$10.00 per day as compensation for his services, together with his actual and necessary expenses incurred while engaged in the performance of his duties, provided that no member shall be entitled to receive more than \$3,000 per annum for his services as a Commissioner.

No member of the Commission shall be eligible to hold any elective or appointive county or state office, and if any member becomes a candidate for county or state office, or accepts an appointment thereto, a vacancy shall automatically exist in such position, which shall be filled immediately by the Governor.

Any member of the Commission shall be subject to removal by the Governor for neglect of duty, or for nonfeasance or malfeasance in office.

§ 6. ORGANIZATION OF COMMISSION, PLACE AND FREQUENCY OF MEETINGS.] The members of said Commission shall meet at the general offices of the Association at Grand Forks upon the call of the Governor within forty days after this act takes effect, shall elect one of its members as Chairman, and shall adopt a seal and rules to govern its procedure. A majority of the Commission shall be a quorum for the transaction of business. The Commission shall hold regular meetings at the Association headquarters not less than once each month, and such special meetings as may be called by the Chairman, or a majority of the Commission. It may hold sessions at other places within the state when in its judgment the business of the Association requires it.

§ 7. TRANSFER OF PROPERTY AND CONTROL.] From and after the first meeting of said Commission, the Governor shall be dispossessed of all power and authority to manage and control the Mill and Elevator Association under the provisions of Chapter 163 of the Session Laws of North Dakota for 1925, and such authority heretofore possessed by the Governor is hereby transferred and vested in this Commission subject to the limitations and restrictions herein contained.

§ 8. POWERS AND DUTIES OF COMMISSION.]

(1) The Commission shall be vested with the sole power and authority to manage, operate and conduct all the business of the Association, and for that purpose it shall be deemed to have the

powers and duties usually vested in a Board of Directors of a business corporation subject to the limitations and exceptions herein set forth.

(2) The Commission shall have authority to make and enforce orders, rules and regulations for the transaction of the business of the Association; to employ a general manager for the Association, define his powers and duties, and fix his compensation; to employ the managing heads of each department of the Association; define their authority and duties and fix their compensation; to discharge or dismiss, with or without cause, any person or officers employed or appointed by it, and to generally determine and control the business policies of the Association.

(3) The Commission may, in its discretion, authorize any member thereof to perform special services for the Association, provided that no member shall be employed as general manager, or as a manager of any department, nor shall he receive for his services any sum in excess of the total compensation allowed by Section 5 of this act.

(4) The Commission shall at its regular monthly meeting and at such other times as it may deem expedient, require the general manager, and each of the departmental heads, to furnish a full and complete report of the condition and progress of the business of the Association and of each department thereof, and it shall have free access to all the records and files of the Association for that purpose.

§ 9. POWERS AND DUTIES OF GENERAL MANAGER.] The general manager shall have authority and it shall be his duty to employ, subject to the control and supervision of the Commission, all assistants, clerks, agents, attorneys and other employees as may be required for the proper transaction of the business of the Association, fix their titles, determine their duties and compensation, and discharge them in his discretion. It shall also be his duty to enforce the orders and regulations of the Commission and generally to manage and conduct the business of the Association under the supervision of the Commission.

§ 10. LOANS FROM THE BANK OF NORTH DAKOTA.] The Industrial Commission shall have the authority and it is hereby made its duty to direct the Bank of North Dakota to loan to the Association from time to time upon the request of the Association, money sufficient for the efficient conduct of its business upon the security of warehouse receipts, bills of lading and other usual forms of security, but the total amount of such money so loaned the Association shall at no time exceed the sum of \$500,000.

§ 11. AUDITOR AND SECRETARY OF COMMISSION.] It shall be the duty of the Industrial Commission to employ an Auditor for the Association, who shall at all times keep himself possessed of knowledge pertaining to the financial condition of the Association, and shall be ready to give to the Industrial Commission or the North

Dakota Mill and Elevator Commission any data pertaining to the affairs of the Association, or an audit of the financial condition thereof when called upon by either of such Commissions; and he shall, without demand, furnish the North Dakota Mill and Elevator Commission a monthly summary of the financial condition of the Association. For the purpose of enabling such auditor to perform his duties, he shall have free access to the records and files of the Association, and shall be paid by the Association a salary of \$3,600 per year, payable monthly. In the performance of his duties the Association shall furnish him such supplies, clerical and other assistance as his work may require. In addition to his duties as herein defined, he may also, with the consent of the Industrial Commission, perform such other services as the North Dakota Mill and Elevator Commission, or the general manager may authorize him to perform, provided that such additional work shall not be permitted to interfere with the efficient performance of his duties as auditor. Such auditor shall have no authority with reference to the conduct and management of the affairs of the Association, except to the extent that he may be specifically granted authority by the North Dakota Mill and Elevator Commission or the general manager.

Such auditor shall also serve as secretary of the North Dakota Mill and Elevator Commission, and shall keep a detailed record of all business transacted by it, and shall have the custody of the files and records of such Commission.

§ 12. BONDS OF GENERAL MANAGER AND OTHER OFFICERS AND EMPLOYEES.] All officers and employees of the Association charged with the performance of any duties in connection with its financial affairs, shall, before entering upon the performance of their duties, each respectively, furnish a sufficient bond payable to the North Dakota Mill and Elevator Association, in such amount and upon such conditions as the Commission may require and approve, which bond shall be approved as to form by the Attorney General, and when so approved, shall be filed with the Secretary of State; provided that the bond of the general manager shall be not less than the sum of \$50,000 in amount.

§ 13. BOOKS, RECORDS AND FINANCIAL STATEMENTS.] The general manager shall, under the direction and supervision of the Commission, cause a complete record to be kept of the affairs and transactions of the Association, and such records shall show at all times all the liabilities and assets of such Association, and the current value of all lands and other property owned by it. It shall include as a part of the liabilities of the Association, all accrued and accruing interest upon the Mill and Elevator Construction Bonds and Milling Bonds heretofore issued by the State of North Dakota and outstanding, including interest and principal installments heretofore paid on such bonds by the state and not repaid by the Association, together with a reasonable amount for depreciation on the plant and equipment. It shall also show all purchases made for the Association

account, money received from the sale of plant equipment and property, of disbursements, and all expenses for the purchase of supplies of every kind, and all receipts from sales. The fiscal year of business shall be from July first to June thirtieth following. The inventory showing current costs and values shall be taken as at the close of business June 30 of each year, and at such other times as shall be required by the Commission, a statement shall be prepared under the direction of the Commission and filed with the Industrial Commission, showing in a detailed and itemized manner, the condition of the business and the results of operation during the preceding annual period. Such report and statement shall be filed with the Industrial Commission not later than the first day of the following October, which report shall be printed and copies thereof delivered to the State Board of Auditors and all members of the Legislature.

§ 14. ACTIONS MAY BE BROUGHT.] Civil actions may be brought against the State of North Dakota, on account of any cause of action claimed to have arisen out of transactions connected with the operation of the Association, upon condition that the provisions of this section are complied with. In such actions, the State shall be designated as "The State of North Dakota doing business as North Dakota Mill and Elevator Association" and the service of process therein shall be made upon the general manager, or two members of the Commission. Such actions may be brought in the same manner and shall be subject to the same provisions of law as other civil actions brought pursuant to the Code of Civil Procedure. Such actions shall be brought, however, in the county where the Association shall have its principal place of business, except as provided in Sections 7415, 7416 and 7417, Compiled Laws of North Dakota for 1913. The provisions of Sections 375 and 657, of the Compiled Laws of 1913 shall not apply to claims against the state affected by the provisions of this act.

§ 15. REPEAL.] Chapter 163 of the Session Laws of North Dakota for the year 1925, and all other acts and parts of acts in conflict herewith, are hereby repealed.

Approved March 9, 1931.

#### CHAPTER 269

(H. B. No. 219—Ostrem.)

#### REPEAL STATE PRISON REVOLVING FUND

An Act to repeal Sections 11256, 11257, 11258, 11259 and 11260 of the Compiled Laws of North Dakota for the year 1913, establishing and creating a State Prison Revolving Fund and providing for the use and disposal thereof.

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

§ 1. REPEAL.] Sections 11256, 11257, 11258, 11259 and 11260 of the Compiled Laws of North Dakota for the year 1913, be and the same are hereby repealed.

Approved March 11, 1931.

## CHAPTER 270

(H. B. No. 221—Hamilton and Helbling.)

## REPEAL STATE TROLLEY LINE

An Act to Repeal Sections 1804 and 1806 of the Compiled Laws of North Dakota for 1913, relating to the State Trolley Line.

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

§ 1. REPEAL.] Sections 1804 and 1806 of the Compiled Laws of North Dakota for 1913 are hereby repealed.

Approved March 11, 1931.

## CHAPTER 271

(H. B. No. 162—Mau.)

## SALE STATE MILL AND ELEVATOR AT DRAKE

An Act providing for the sale of the State Mill and Elevator at Drake by the State Industrial Commission, and repealing Section 4, Chapter 163 of the Session Laws of 1925.

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

§ 1. SALE OF STATE MILL AND ELEVATOR AT DRAKE.] It shall be the duty of the State Industrial Commission to take steps as soon as possible after the taking of effect of this act, to obtain sealed bids in response to sixty days public notice of intention to sell the Drake Mill and Elevator, and to accept the highest responsible sealed bid therefor and to sell and convey such property. Power is hereby expressly granted to the Industrial Commission to execute and deliver any conveyances necessary to carry out the purposes of this act; such conveyances shall be made in the name of the North Dakota Mill and Elevator Commission by the Industrial Commission. All funds derived from such sale shall be paid forthwith to the State Treasurer to be credited by him to the Sinking Fund for the payment of interest upon the retirement of outstanding bonds of the North Dakota Mill and Elevator Series.

§ 2. REPEAL.] Section 4, Chapter 163, Session Laws of 1925, is hereby repealed.

Approved March 10, 1931.

CHAPTER 272  
(S. B. No. 66—Whitman.)

TRANSFER LICENSE UNIVERSITY RADIO STATION KFJM

An Act authorizing the Board of Administration with the approval and consent of the Governor to transfer the license of radio station located at the State University of North Dakota at Grand Forks, North Dakota.

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

§ 1. TRANSFER OF LICENSE.] The Board of Administration with the approval and consent of the Governor is hereby authorized to transfer the license of radio station KFJM located at the University of North Dakota at Grand Forks, North Dakota, to private parties on condition that they continue to operate such radio station at the University with the power station located on the University campus and that perpetual rights be retained for the use of the station for observation for the students taking courses in radio communication at the University of North Dakota; provided that no discrimination shall be shown as between individuals, corporations, copartnerships, or associations, societies or political parties by the parties owning or operating this station following this transfer of license. Any violation of this provision shall be sufficient grounds for cancellation of the transfer of this license.

Approved March 10, 1931.

STATE SECURITIES COMMISSION

CHAPTER 273  
(H. B. No. 140—Committee on State Affairs.)

RE-ESTABLISHMENT SECURITIES COMMISSION RECORDS

An Act to require licensed investment companies and dealers, to furnish to the Securities Commission certain exhibits, records and data for the purpose of re-establishing the records and files of the Commission; and providing for re-issuance of such licenses.

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

§ 1. Any person, co-partnership, association or corporation, licensed as an investment company or dealer by the State Securities Commission prior to December 28, 1930, is hereby required to forward to the Securities Commission copies of all applications and all exhibits heretofore filed with the Commission pursuant to Section 5235a3, and acts amendatory thereto, of the Supplement to the Compiled Laws of North Dakota for 1913, if an investment company; or pursuant to Section 5235a12, and acts amendatory thereto, of the Supplement to the Compiled Laws of North Dakota for 1913, if a dealer; together with any other documents that, subsequent to



such licensing, may have been required to be filed, and upon which applications and exhibits such investment company or dealer licenses have been issued; also the original license and copy of excerpt from Commission record showing all conditions imposed upon the granting thereof.

The documents heretofore prescribed to be filed with the Securities Commission shall be accompanied by the affidavit of the applicant, if a person, member of the firm, if a co-partnership, or an officer, if an association or corporation, which affidavit shall state that said documents are true copies of the original instruments.

§ 2. Upon compliance by the applicant with the provisions of the foregoing section, the Securities Commission shall issue to the applicant, without charge, a Lieu Certificate, which shall be issued upon the same conditions and confer the same rights as the original license. Provided: The Securities Commission may issue a Lieu Certificate whenever in its discretion the applicant has made substantial compliance with the provisions of Section 1 of this act.

§ 3. All licenses issued to investment companies or dealers by the Securities Commission, prior to December 28, 1930, shall on July 1, 1931, be deemed cancelled and shall thereupon be null and void.

§ 4. EMERGENCY.] Whereas, the records and files of the North Dakota Securities Commission were destroyed by fire on December 28, 1930, and whereas, it is necessary for the protection of the investing public that such records be re-established and that the Securities Commission be enabled to exercise supervision over the sale of securities authorized prior to said date, this act is hereby declared to be an emergency measure and shall be in force and effect from and after its passage and approval.

Approved March 7, 1931.

#### CHAPTER 274

(H. B. No. 141—Committee on State Affairs.)

#### REQUIREMENTS AND EXEMPTIONS SECURITIES COMMISSION

An Act amending and re-enacting Section 5235a3 of the Supplement to the Compiled Laws of 1913, as amended by Chapter 255, Session Laws of 1927, and as further amended by Chapter 219, Session Laws 1929; and Sections 5235a5 and 5235a6 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 255, Session Laws of 1927; and Section 5235a9 of the Supplement to the Compiled Laws of 1913; and Sections 5235a12 and 5235a14 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 255, Session Laws of 1927; and Sections 5235a20 and 5235a22 of the Supplement to the Compiled Laws of 1913.

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

§ 1. AMENDMENT.] Section 5235a3 of the Supplement to the Compiled Laws of 1913, as amended by Chapter 255, Session

Laws of 1927 and as further amended by Chapter 219, Session Laws of 1929, is hereby amended and re-enacted to read as follows:

§ 5235a3. It shall hereafter be unlawful for any person, co-partnership, association or corporation, hereinafter called the Investment Company, either as principal or through agents, to sell, or offer for sale, or by means of any advertisement, circulars, or prospectus, or by any other form of public offering, to attempt to promote the sale of, any securities, or induce any person, firm, association, or corporation, in this state, to become financially interested in any securities, unless there shall first have been filed with the Securities Commission: (1) A copy of the securities to be so promoted, together with any subscription or order blanks to be used in connection with the sale thereof; (2) A statement, in substantial detail, of the assets and liabilities of the person or company making and issuing such securities and of any person or company guaranteeing the same, including specifically the total amount of such securities and of any securities prior thereto in interest or lien, authorized or issued by any such person or company; (3) If such securities are secured by mortgage or other lien, a copy of such mortgage or of the instrument creating such lien, and a competent appraisal or valuation of the property covered thereby, with a specific statement of all prior liens thereon, if any; (4) A full statement of facts showing the gross and net earnings, actual or estimated, of any person, or company making and issuing or guaranteeing such securities, or of any property covered by any such mortgage or liens; (5) All knowledge or information in the possession of such Investment Company relative to the character or value of such securities, or of the property or earning power of the person or company making and issuing or guaranteeing the same; (6) A copy of any general or public prospectus or advertising matter which is to be used in connection with such promotion, and no such prospectus or advertising matter shall be used unless the same has been filed hereunder; (7) The names, addresses, and selling territory in this state, of any agents by or through whom any such securities are to be sold, including a statement giving the qualifications, occupations and business experience of each of such agents for a period of five years prior to such filing; the name and address of each employer, the period of employment and reason for resignation or discharge, and no such agents shall be employed unless such statement with respect to them has been filed hereunder, and there shall have been paid to the Commission a registration fee of five dollars (\$5.00) for each such agent. The payment of such fee shall be payment in full of all fees for registration of such agent from January 1st to January 1st the following year; (8) The name and address of such promoter, including the names and addresses of all partners, if the Investment Company be a partnership, and the names and addresses of the directors or trustees, and of any person owning ten per centum, or more, of the capital stock, if the pro-

moter be a corporation or association; (9) A statement showing in detail the plan on which the business or enterprise is to be transacted; (10) The articles of co-partnership or association, and all other papers pertaining to its organization, if the securities be issued or guaranteed by a co-partnership or unincorporated association; (11) A copy of its charter and by-laws if the securities be issued or guaranteed by a corporation; (12) A filing fee of \$1.00 per \$1,000.00 on the total proposed sale price of the securities covered by such application; provided, that the minimum qualification fee shall be \$25.00 and the maximum qualification fee \$500.00. In case of denial of the application, all such fees, in excess of \$25.00, will be returned to the applicants.

Such Securities Commission may, in its discretion, at any time, either before or after issuance of a license, require any person, firm, corporation or association heretofore licensed or which may hereafter be licensed to sell its securities within the State of North Dakota as in this chapter provided, to deposit with the Treasurer of the State of North Dakota securities of such kinds, in such amounts and at such times as it may deem necessary or expedient to protect from loss any purchasers within the State of North Dakota who have heretofore invested in, or who may hereafter invest in or contract for any such securities, and make such rules and regulations governing the deposit, withdrawal, or substitution of such securities as in its judgment is necessary or expedient. Any person, firm, corporation or association, heretofore licensed, neglecting or refusing, for thirty days after notice thereof, to comply with any direction or order of said Commission relating to such deposit required herein, shall forfeit its right to sell such securities within the State of North Dakota and its license shall be immediately revoked.

§ 2. AMENDMENT.] Section 5235a5 of the Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 5235a5. It shall be the duty of the Commissioner as soon as is practical, to examine the statement and documents so filed and if said Commission shall deem advisable, it shall make, or have made, a detailed inspection, examination, audit and investigation of the affairs of the makers or guarantors of such securities which said inspection, examination, audit and investigation shall be at the applicant's expense. As a part of the aforesaid inspection, examination, audit and investigation, the Commission may cause an appraisal to be made of the property of the maker or guarantor, including the value of patents, formulae, and good-will, promotion, and intangible assets and such appraiser or appraisers shall furnish a full and complete statement or report of his or their inspection and investigation aforesaid to the Securities Commission. If the statement discloses that any of such securities have been or it is intended they shall be issued for any patent right, copyright, trade-

mark, process or good-will, or for promotion fees or expenses, or for other intangible assets, the amount and nature thereof shall be fully set forth, and securities issued in payment of such patent right, copyright, trademark, process or good-will, or for promotion fees or expenses, or for other intangible assets, shall be delivered, in escrow, to such bank or trust company as shall be designated by the Commission, under an escrow agreement, that the owners of such securities shall not, in case of dissolution or insolvency, participate in the assets of the corporation until after the owners of all other securities shall have been paid in full. Said escrow agreement shall remain in full force until the securities of the issuer thereof are on a dividend paying basis. The State Securities Commission shall, within ten days thereafter, examine the statement or report, and give the promoter a hearing if he so desires.

If, from the statements, papers and documents on file, and the investigations made or caused to be made by the Commission, or from other evidence submitted, it shall appear, and the State Securities Commission shall find either:

1. That the makers and guarantors of such securities are insolvent or that the applicants plan of business is dishonest or fraudulent; or

2. That the applicants literature or advertising is misleading and calculated to deceive purchasers or investors; or

3. That the securities offered or to be offered are to be issued in payment for property, patents, formulae, good-will, promotion, or any intangible assets, in excess of the reasonable value thereof; or

4. That the enterprise of the applicant is unlawful or against public policy; or is a mere scheme of a promoter or promoters to get rich quick at the expense of the purchasers of the aforesaid securities; or

5. That there is lack of adequate proof sufficient to satisfy said Commission of the soundness of the venture or enterprise or prospective success thereof; or

6. That in the judgment of the Commission the prospect of future earnings is too uncertain to insure to the investors the safety of their investment and the return thereof with a reasonable profit thereon; or

7. That the agreements, contracts or securities under whatever name designated, purposed to be issued to any purchaser are in the judgment of the Commission, harsh, unconscionable or unfair to any such purchaser, then said Commission may in its discretion deny such application; provided however that if in the minds of the Commission, there is any doubt as to the sufficiency of the showing of the applicant as to subdivision 6 above, said Commission may in lieu of an adverse finding as to said subdivision 6, require all advertising, subscription blanks and certificates or other instruments by whatever name designated, issued or to be issued or used, in connection with the sale of said securities, to be stamped in red

letters in 18-em Ionic or Gothic type diagonally across the face thereof the following words "SPECULATIVE SECURITY."

Provided further, that if said Commission shall find from the statements, papers, and documents of any licensee to whom a license has been issued that the prospect of future earnings is too uncertain to insure to the investors the safety of their investment and the return thereof with a reasonable profit thereon, it may require any licensee heretofore licensed to stamp the words "SPECULATIVE SECURITY" across the face of any subscription blanks, certificates or instruments hereafter used or issued in the manner hereinbefore provided.

If, however, said Commission is satisfied with the showing made and that the said applicant has complied in all respects with the provisions of this statute, it may direct the issuance of a license to the applicant.

It is the intent and purpose of this act that the applicant or the licensee shall at all times assume the burden of satisfying said Commission of the soundness and safety of the enterprise and of the good faith and intentions of the promoters thereof.

§ 3. AMENDMENT.] Section 5235a6, of the Supplement to the Compiled Laws of 1913, as amended by Chapter 255, Session Laws of 1927 is hereby amended and re-enacted to read as follows:

§ 5235a6. The State Securities Commission shall at all times, have authority and jurisdiction to investigate the affairs of any enterprise, the securities of which are being sold, or offered for sale, in this State, and if, after having given the licensee or dealer a hearing, which shall be after such notice as the Commission deems necessary or advisable, such Commission finds adversely to such licensee or dealer on any of the grounds enumerated in Section 5235a5 of this Chapter, or acts amendatory thereof, or finds that the licensee or dealer, its agents or solicitors, have been guilty of misrepresentation or of any fraudulent practices in the sale of such securities, or finds that by reason of anything done or omitted to be done by said licensee or dealer the operations or practices of said licensee or dealer may tend to endanger the soundness or safety of the investments made therein, or finds that said licensee or dealer has violated any provisions of this chapter, such Commission shall immediately revoke the license of said licensee or dealer, and it shall thereafter be unlawful for such licensee or dealer to sell, either directly, or through dealers, agents or solicitors, any of its securities within the State of North Dakota.

§ 4. AMENDMENT.] Section 5235a9 of the Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 5235a9. The provisions of this act shall not apply to (a) Securities of the United States or of its territories or insular possessions; or of any state of the United States; or of any county,

city, township, school district or any other public taxing subdivision thereof, provided that the securities of any such county, city, township, school district or other public taxing subdivision are general obligations such as are or may be payable directly or indirectly from ad valorem taxes and whose net debt, as defined by the laws under which same are issued, shall not exceed 10% of the assessed valuation of all the taxable property of such municipality or taxing district. Provided that during each of the ten fiscal years next preceding the date of such investment any such municipality shall have paid the matured principal and interest of all its outstanding general obligation indebtedness. (b) Any security issued or guaranteed either as to principal, interest or dividend by a corporation owning or operating a railroad or any other public service utility; *provided*, that such corporation is subject to regulation or supervision either as to its rates and charges or as to the issue of its own securities by a public commission, board or officer of the Government of the United States, or of any state, territory or insular possession thereof, or of any municipality, located therein, or of the District of Columbia, or of the Dominion of Canada or any province thereof; also equipment securities based on chattel mortgages, leases, or agreements for conditional sale of cars, motive power or other rolling stock mortgaged, leased or sold to or furnished for the use of or upon a railroad or other public service utility corporation, or equipment securities where the ownership or title of such equipment is pledged or retained in accordance with the provisions of the laws of the United States of or any state, or of the Dominion of Canada, to secure the payment of such equipment trust certificates, bonds or notes; also bonds, notes or other evidences of indebtedness issued by a holding corporation and secured by collateral consisting of any securities hereinabove in this clause (b) described; provided, that the collateral securities equal in fair value at least 125 per centum of the par value of the bonds, notes or other evidences of indebtedness so secured. However, before offering any such securities descriptive circulars of all securities described in this subsection (b) shall be filed with the Securities Commission and said Commission shall have three days from and after the receipt of such circulars within which to require any of such securities to be qualified by application, otherwise said securities shall be exempt. (c) Securities of state of (or) national banks or trust companies, or building and loan associations authorized to do business in this state. (d) Securities of any domestic corporation, organized without capital stock, for charitable or reformatory purposes. (e) Securities listed on the New York Stock Exchange and New York Curb Exchange, which securities have been so listed pursuant to official authorization by such Exchange, and all securities senior to any securities so listed, or represented by subscription rights which have been so listed or evidence of indebtedness guaranteed by companies, any stock of which is so listed, such securities to be exempt only so long as such listing shall remain in effect.

In a prosecution based upon any of the provisions of Chapter 32A of the Supplement to the Compiled Laws of 1913, and acts amendatory thereto, the state shall not be required to negative the exceptions provided by this section; such exceptions may be proved by the defendant as defensive material and the burden of proof shall be upon the defendant to establish such defense.

§ 5. AMENDMENT.] Section 5235a12 of the Supplement to the Compiled Laws of 1913, as amended by Chapter 255, Session Laws of 1927, is hereby amended and re-enacted to read as follows:

§ 5235a12. Any dealer desiring to sell or offer for sale within this state any stocks, bonds or other securities not exempted under the terms of this act, shall first register with the North Dakota Securities Commission and shall furnish said Commission upon oath, in such form as the Commission shall prescribe, the following information, to-wit: the dealer's name, residence and business address, the general character of the securities to be dealt in, the place or places where the business is to be conducted within the state, and where the business in this state is not to be conducted by the dealer in person, then the name and addresses of all persons in charge thereof, and shall furnish said Commission with such other information in addition to that above specified as said Commission shall deem necessary in order to thoroughly acquaint such Commission with the character of the business of said dealer. All authorized agents of any dealer shall be registered with the Commission and the name of any agent shall be stricken from the register by the Commission upon the written request of the dealer and additional agents may be registered by the Commission upon like request of the dealer; provided, that no agent shall act as such until his name and address shall be registered with the Commission. If the dealer shall be a non-resident of this state, or a corporation other than a domestic corporation, he shall, at the time he registers with the Commission, file with the Commission a written duly authenticated appointment of the Secretary of State of this state as his or its agent in North Dakota upon whom process or pleadings may be served for and on behalf of the dealer, which appointment shall be irrevocable. Every such dealer shall file with his application an indemnity bond in such amount as the Commission may require, running to the State of North Dakota, the form of bond used to be approved by the Commission and to be conditioned upon the faithful compliance with all the provisions of this act, by the dealer, and all agents licensed by him and for the faithful performance and payment of the obligations of such dealer or his agents. Such bond shall be executed as surety by a surety company authorized to do business in this state. Upon compliance by such dealer with the provisions of this act, the said Commission shall issue to such dealer a license under the seal of said Commission and signed by the secretary thereof, which said license shall expire on the 31st day of December

in each year, but new licenses for the succeeding year shall be issued upon written application and upon the payment of the fee as herein-after provided, without the filing of further statements or the furnishing of any further information, unless specifically required by the Commission. Applications for renewals must be made not less than fifteen nor more than forty-five days before the first of the ensuing year, otherwise, they shall be treated as original applications. The initial fee for such license of dealers shall be fifty dollars (\$50.00), and for each renewal thereof, within the time herein provided for, fifteen dollars (\$15.00); and the annual fee for agents license shall be five dollars (\$5.00). If said dealer's license is issued after July 1st of any year, the fee shall be reduced one-half.

§ 6. AMENDMENT.] Section 5235a14 of the Supplement to the Compiled Laws of 1913, as amended by Chapter 255, Session Laws of 1927, is hereby amended and re-enacted to read as follows:

§ 5235a14. No dealer within the meaning of this act shall sell or offer for sale within this state any of the stock, bonds or other securities of any investment company unless such investment company shall have fully complied with all the provisions of this act, nor until said dealer shall have registered with the Commission under the terms of this act; provided, however, that should any dealer desire to sell or offer for sale within the state the stocks, bonds or other securities of an investment company which has not itself complied with the provisions of this act, said dealer shall file a notification of each issue of securities he is about to sell, giving the following information.

- (a) Name of issuer.
- (b) Amount of issue covered by the notification.
- (c) A descriptive circular or statement briefly describing the securities.
- (d) The price at which the securities are to be sold.

The fee for filing such notification of intention to sell shall be 50 cents per \$1,000.00 on the total proposed sale price of the securities covered by such notification; provided, that the minimum fee shall be \$10.00 and the maximum fee \$100.00.

The Commission shall have three (3) days from and after receipt of such notification in which to take formal action and in case the Commission does not take such action within this given time, such securities shall be considered registered subject to the terms of such notification.

The Commission shall have the power to approve or deny the sale of said securities upon such registration or to require that the dealer qualify said securities under Section 5235a3 of this act. In case the dealer is required to comply with Section 5235a3 of this act there shall be a fee of \$1.00 per \$1,000.00 of the total amount so qualified, with the minimum of \$25.00 for any one issue.



§ 7. AMENDMENT.] Section 5235a20 of the Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 5235a20. Any person, partnership, association or corporation who shall commit in this State any act declared unlawful by Sections 3, 5, 8, 10, 13 or 14 of this act, shall be deemed guilty of a felony and on conviction in any court of competent jurisdiction be punished by a fine of not less than one hundred nor more than five thousand dollars, or by confinement in the North Dakota State Penitentiary for a term of not less than one year nor more than seven years.

§ 8. AMENDMENT.] Section 5235a22 of the Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 5235a22. All fees herein provided for shall be collected by the Securities Commission and shall be by it turned into the State Treasury, and the amount thereof over and above the amount appropriated by the Legislature to the use of said Commission is hereby appropriated to said Commission for its use in such manner as it may deem necessary and proper for enforcing the provisions of this act. All claims for the payment thereof shall be audited and paid in the same manner as are other claims against the state; provided, however, that any balance in said fund at the end of each biennial period shall revert to the general fund.

Approved March 11, 1931.

## STATE TRANSPORTATION OFFICER

### CHAPTER 275

(S. B. No. 142—Hamilton and Lynch.)

#### STATE TRANSPORTATION OFFICER

An Act to amend and re-enact Section 3526a1 Supplement to the Compiled Laws of 1913, providing for a State Transportation Officer, his compensation, and relating to the transportation of prisoners and patients to institutions under the jurisdiction of the State Board of Administration.

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

§ 1. AMENDMENT.] That Section 3526a1 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 3526a1. APPOINTMENTS; DUTIES; COMPENSATION.] The State Board of Administration shall appoint a competent person who shall be known as the State Transportation Officer and whose duty it shall be to transport and convey to the Penitentiary and to the

Reform School persons sentenced and committed to these institutions, and to transport to the Asylum for the Insane persons who have been adjudged insane by the insanity board of any county. Such Transportation Officer shall at all times be under the direction of the State Board of Administration and may be removed from his office by said Board at any time for incompetency or for failure to properly perform the duties of his office. He shall receive as compensation for his services a sum not to exceed twenty-four hundred dollars (\$2,400.00) per annum together with actual and necessary expenses incurred in the discharge of his duties.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this act shall become effective immediately upon its passage and approval.

Approved March 11, 1931.

## TAXATION

### CHAPTER 276

(H. B. No. 35—Johnson.)

#### ABATEMENT UNJUST OR INVALID ASSESSMENTS

An Act providing for the abatement of unjust or invalid assessments and refund of unjust or invalid taxes; prescribing the form of application for abatements and refunds; prescribing the duties of the county auditor and of the board of county commissioners in connection therewith; providing for appeal to the district court; providing for the compromise of delinquent taxes on real estate sold to the county; making the provisions of this act retroactive; repealing Section 2165 of the 1925 Supplement to the Compiled Laws of North Dakota for the year 1913 and all acts and parts of acts in conflict herewith.

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

§ 1. Unless otherwise expressly provided, if any person (including any firm or corporation) against whom an assessment has been made or a tax levied, claims such assessment, or tax or any part thereof to be invalid for any reason herein stated, the same may be abated, or the tax refunded if paid, and the board of county commissioners is authorized and empowered, subject to the approval of the State Tax Commissioner, to abate or refund, in whole or in part, such invalid assessments or taxes in the manner hereinafter prescribed and in the following cases only

1. When an error has been made in any identifying entry or description of the property, in entering the valuation thereof or in the extension of the tax, to the injury of the complainant.

2. When improvements on any real property were considered or included in the valuation thereof, which did not exist thereon at the time fixed by law for making the assessment.

- 3. When the complainant or the property is exempt from the tax.
- 4. When the complainant had no taxable interest in the property assessed against him at the time fixed by law for making the assessment.
- 5. When taxes have been erroneously paid or error made in noting payment or issuing receipt therefor.
- 6. When the same property has been assessed against the complainant more than once in the same year, and the complainant produces satisfactory evidence that the tax thereon for such year has been paid; provided, that no tax shall be abated on any real property which has been sold for taxes, while a tax certificate is outstanding except when a contract for the sale of state lands has been cancelled as provided in Chapter 245 of the Session Laws of 1927.
- 7. When the board of county commissioners is satisfied beyond a doubt that the assessment of the real or personal property described in the application for abatement is invalid, inequitable or unjustly excessive, the board may, if such application is filed on or before the first day of November in the year in which such taxes become delinquent, abate any part thereof in excess of a just, fair and equitable assessment.

§ 2. FORM OF APPLICATION.] Applications for abatements or refunds under the preceding section shall be filed in duplicate with the county auditor and shall be made substantially in the following form and subscribed and sworn to by the applicant:

*To the Honorable Board of County Commissioners,*  
 .....County, North Dakota.

STATE OF NORTH DAKOTA, }  
 County of.....} ss.

....., being duly sworn, deposes and says:  
 (Here set out fully any of the seven reasons enumerated in the preceding section permitting abatements or refund.) Wherefore, affiant asks the board to grant the relief required by law, in such cases made and provided.

.....  
 Subscribed and sworn to before me this.....day of  
 ....., 19..... ..  
 .....  
 .....

§ 3. FILING OF APPLICATION, ACTION THEREON, RECORD THEREOF.] Upon receipt of any such application the county auditor shall note the date thereon and file the same, and he shall present the application to the board of county commissioners at its next regular meeting. The board shall, by a majority vote, either approve or reject the application, in whole or in part. If rejected, a statement of the reasons for such rejection, signed by the chairman of the board, shall be attached to the application. Before the board takes final action it may permit or require the production of addi-

tional evidence and the amendment of the application. Provided, however, that no reduction, abatement, or refundment of any special assessment made or levied by any municipality for local improvements shall be made unless the application is also approved by the governing body of the municipality in which the property assessed for such special assessment is situated; and provided further that in all other cases the recommendation of the governing body of the municipality in which such assessed property is located shall be endorsed upon, or attached to every application for abatement, reduction, or refundment of taxes and such recommendation shall be given due and fair consideration by the board of county commissioners. Any application for abatement or refund of taxes approved by the board of county commissioners shall be effective when approved by the State Tax Commissioner.

§ 4. When any such application for abatement is granted by the board of county commissioners and approved by the State Tax Commissioner, the County Auditor shall correct both the original and duplicate tax lists in accordance with the abatement order and the applicant shall be relieved of further liability for the tax abated.

§ 5. Whenever taxes on any real estate remain unpaid and such property has not been sold to any purchaser other than the county, the board of county commissioners may, subject to the approval of the State Tax Commissioner, by reason of depreciation in the value of such property or for other valid cause, compromise with the owner of such property by abating a portion of such delinquent taxes on payment of the remainder.

§ 6. When any such application for refund is granted, the County Auditor shall issue and deliver to the applicant a warrant drawn on the County Treasurer for the amount ordered refunded, and the County Treasurer shall refund the same, and write opposite such tax in his duplicate, the word "Refund", and the date and number of the warrant. The amount so refunded shall be charged to the state, county, city, incorporated village, township or school corporation which may have received any part of such money, in proportion to the levies for the year for which the tax was extended.

§ 7. RIGHT OF APPEAL.] The same right of appeal to the district court from the decision of the board of county commissioners abating, refunding or compromising any tax shall exist as in cases under Section 3298 of the Compiled Laws of North Dakota for the year 1913 and acts amendatory thereof. The right to proceed, under provisions of law in such case made and provided, to recover taxes paid under protest shall not be qualified or limited by this act.

§ 8. LAW RETROACTIVE.] The provisions of this article shall apply to assessments and taxes heretofore or hereafter made or levied.

§ 9. REPEAL.] Section 2165 of the 1925 Supplement to the Compiled Laws for the year 1913 and all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 7, 1931.

## CHAPTER 277

(S. B. No. 179—Committee on Tax and Tax Laws.)

### ACCEPTANCE NEGOTIABLE PAPER FOR TAXES

An Act amending and re-enacting Section 2 of Chapter 244 of the Laws of North Dakota for the year 1929, relating to the payment of taxes, assessments, fees and licenses.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 244 of the Laws of North Dakota for the year 1929 be amended and re-enacted to read as follows:

§ 2. ACCEPTANCE SUBJECT TO PAYMENT.] The acceptance, however, of any check, draft or money order shall be subject to collection, and shall constitute a payment of the tax, assessment, fee or license for the payment of which it was tendered only when it shall have been duly honored and paid.

If, on due presentment, any check, draft, or money order so accepted shall for any reason not be honored or paid, any record of payment or redemption that may have been made on any official record because of the acceptance of such check, draft or money order, shall be cancelled, and the tax, assessment, fee or license shall stand as a charge and lien just as though no credit had been given or payment attempted. For the purpose of making certain such cancellation the officer accepting any check, draft or money order shall make whatever memoranda may be necessary to enable him to make the proper cancellation upon the return, of any check, draft or money order, that has not been paid.

Upon payment of taxes to the County Treasurer by check, draft or money order, the Treasurer shall note on the tax receipt the method or manner of payment whether in cash or by check, draft, or money order and a like notation shall be made on the tax list, provided that in case of redemption the notation as to method or manner of payment shall be made on the Auditor's tax sale record.

Approved March 11, 1931.

CHAPTER 278  
(H. B. No. 241—Mau.)

TAX LEVY CAPITOL BUILDING

An Act amending and re-enacting Chapter 236 of the Session Laws of North Dakota for 1929 providing for the levying of a tax to create a fund for the purpose of erecting a new Capitol Building and equipping the same at the City of Bismarck, North Dakota.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 236 of the Session Laws of North Dakota for 1929 be amended and re-enacted to read as follows:

§ 1. There shall be levied upon each dollar of assessed valuation of all taxable property within this State for the years 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939 and 1940, and to be paid during each of said years, one-tenth of one mill on every dollar of taxable property, and all such revenues as may be collected under such levy, including all interest collected, shall be paid into a special fund known as the "State Capitol Building Fund." Such fund shall be used only for the purpose of erecting a new capitol building and equipping same in the City of Bismarck, North Dakota.

Approved March 9, 1931.

CHAPTER 279

(S. B. No. 81—Brostuen, Poupore and Thorson.)

COLLECTION DELINQUENT PERSONAL PROPERTY TAXES

An Act to amend and re-enact Section 2166, Supplement to the Compiled Laws of 1913, and Section 2186 of the Compiled Laws of North Dakota for the year 1913, as amended and re-enacted by Chapter 241 of the Session Laws of 1929, relating to the collection of personal property taxes, relating to real and personal property tax liens and prescribing the duties of the sheriff and county auditor in connection with the collection of such taxes, repealing all acts and parts of acts in conflict herewith and declaring an emergency.

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

§ 1. That Section 2166 of the Supplement to the Compiled Laws of 1913, as amended and re-enacted by Section 3 of Chapter 241 of the Session Laws of North Dakota for the year 1929, is hereby amended and re-enacted to read as follows:

§ 2166. DELINQUENT PERSONAL PROPERTY TAXES: WHEN DUE: PENALTY: DISTRESS.]

(a) All personal property taxes shall become due on the 31st day of December in each and every year for which the tax was levied, and become delinquent on the first day of March next after they become due, and thereupon a penalty of five per cent shall attach and

be charged upon all delinquent taxes; and thenceforth interest shall be charged at the rate of three-fourths of one per cent per month of the original amount of the tax until the same is paid.

(b) The County Treasurer shall, during the month of January preceding the time when such tax shall become delinquent, give notice of the fact by mailing to each person, firm or corporation, a written notice stating the amount of tax due from each person, firm or corporation, and the date when the same shall become delinquent.

(c) On or before the first day of August in each year the County Treasurer shall make out a list of the unpaid delinquent personal property taxes, in the same order as they appear on the tax list, and shall, on or before the fifteenth day of August thereafter, notify by mail each of the delinquents that unless such taxes are paid on or before the fifteenth day of September, such taxes will be placed in the hands of the Sheriff for collection and the County Treasurer shall on said fifteenth day of September deliver such list of delinquent taxes to the Sheriff of his county, who shall immediately proceed to collect all such delinquent personal property taxes, and if such taxes are not paid upon demand, he shall distrain sufficient goods and chattels belonging to the person, firm or corporation charged with such taxes, to pay the same, with the said penalty of five per cent and all accruing interest and costs.

In all cases of collection of personal property taxes by distraint the Sheriff shall immediately proceed to advertise the same by posting notices in three public places in the town or district where such property is taken, stating the time when, and the place where, such property will be sold, and the amount of said delinquent tax, together with the penalty and accruing interest, and no personal property shall be exempt from distraint and sale, except personal property consisting of household furniture, wearing apparel and necessary provisions belonging to the head of a family to the value of one hundred dollars, and if the tax for which said property is distrained, together with penalty and accrued interest and costs is not paid before the day appointed for such sale, which shall not be less than ten days after the taking of such property, such sheriff or his deputy shall proceed to sell such property at public vendue, or so much thereof as shall be sufficient to pay such taxes, penalty and costs of such distress and sale, and any surplus arising from said sale shall be disposed of as in case of sale of mortgaged personal property.

(d) If a person charged with a personal tax has not sufficient property which the sheriff can find to distrain to pay such tax, but has moneys or credits due him or coming due him from any person, corporation, governmental agency, municipality or from the State, known to the Sheriff, or if such taxpayer has removed from the State or County and has property or moneys or credits due him or coming due him in the State known to the Sheriff, in every such case the Sheriff shall collect such personal tax and penalty by distress, attachment or other process of law. The remedy provided by this

paragraph is in addition to any other remedy provided by law for the collection of personal taxes.

(e) After receiving such list from the County Treasurer, the Sheriff shall on the first day of each month thereafter make out and file with the County Treasurer a statement of the personal property taxes collected, giving the name, township, or district and postoffice address of each person, firm or corporation from whom collected, and the amount of the tax including penalty and interest collected from each, and at the same time he shall turn over to the County Treasurer the moneys collected as shown by such statement. The Treasurer shall issue receipts for taxes thus collected as provided in Section 2157 of the Compiled Laws of North Dakota for the year 1913 or Acts amendatory thereof by mailing such receipt to the person, firm or corporation entitled thereto. The Sheriff shall, at the time of filing such receipt with the County Treasurer, also file a duplicate thereof with the County Auditor, and shall on or before the first day of January in each year file a statement of taxes collected, as herein provided, together with the list of uncollected taxes as required by Section 2169 of the Compiled Laws of North Dakota for the year 1913 or Acts amendatory thereof. Failure by any Sheriff to file any of the reports herein required shall subject him to a penalty of five dollars (\$5.00) for each day that the filing of such report is delayed and such penalty shall be deducted from salary due him or which may thereafter become due him.

The sheriff shall retain in his office the original delinquent tax list furnished him by the County Treasurer, and it shall be his duty to collect at any time any taxes remaining uncanceled, unabated or unpaid, and upon sending his notices for each succeeding year he shall include any unpaid balances together with interest, penalty and costs, with the new delinquent amount, which shall be collected in the same manner as the current delinquent tax.

§ 2. Personal property taxes shall for the purpose of distraint be a lien upon all the personal property in possession of the person assessed from and after the date when the assessment is made, and when the Sheriff shall discover that any person, after his property is assessed, and before the tax thereon is paid, is about to sell, barter or remove his property from the County, without leaving sufficient therein to pay such taxes, he shall at once proceed to collect such taxes by distraint and sale of such property if, upon demand, the taxes are not paid.

And if any person (including firm or corporation), after his personal property is assessed and before the taxes thereon are paid, shall sell or transfer all of his personal property to any one person and not retain sufficient to pay the taxes thereon, such taxes shall be a lien upon the property so sold or transferred, and shall at once become due and payable, and the Sheriff shall forthwith collect such taxes by distraint and sale of the property if, upon demand, the taxes are not paid. The person owing such tax shall be civilly liable to the



purchaser of such property for any taxes which he owes thereon, but the property so purchased or transferred shall be liable in the hands of the purchaser or vendee for such tax.

The amount of the tax due, under the provisions of this section, if the levy for the year has not been made, shall be determined by the County Auditor by applying the aggregate mill levy of the previous year, applicable to the taxing district in which such property is assessed. If such levy shall thereafter be found to be in excess of the taxes actually due, the excess shall be refunded upon order of the Board of County Commissioners.

§ 3. That Section 2186 of the Compiled Laws of North Dakota for the year 1913, as amended and re-enacted by Section 5 of Chapter 241 of the Session Laws of 1929 is hereby amended and re-enacted to read as follows:

§ 2186. Taxes upon real property are hereby made a perpetual paramount lien thereupon against all persons, firms or corporations, except the United States and the State. All taxes shall, as between vendor and purchaser, become a lien upon real estate on and after the 31st day of December in each year. Taxes on personal property charged upon and spread against real property shall be, and they are hereby declared to be a lien upon such real property from and after the date when such personal property taxes are charged and spread against such real estate. The liens enumerated in this Section shall include all costs, penalties, interest, charges and expenses of and concerning such taxes which by the provisions of law shall accrue, attach or be incurred. The lien of personal property taxes charged against real estate shall have priority over any and every judgment, mortgage or other lien or claim whatsoever placed of record subsequent to the date when such personal property taxes are entered against such real property, except the lien for a tax for a subsequent year which shall have priority over such personal property tax liens formerly charged and spread.

§ 4. Taxes assessed upon personal property such as buildings, assessed as personalty, tractors, combines, threshing machines, or other personal property, or items or personal property, having been individually and specifically assessed shall be a paramount lien upon such property from and after the date when such assessment is made and no sale or transfer or such individually and specifically assessed personal property shall in any way effect the lien for taxes thereon.

§ 5. Before any judgment or final order or final decree shall be entered in any court in this State in any of the following cases, it shall first be shown to the satisfaction of the court that all taxes due and owing from the executor, administrator, trustee, agent or guardian, or which may be collected from him by virtue of the assessment and taxation laws of this State, have been paid to-wit: The estate of a deceased person or other proceeding in probate involving the distribution of personal property.

§ 6. No mortgage or lien, of any nature or description, upon personal property shall be foreclosed by the sale of such property unless the owner thereof, his agent, or attorney, or the editor or publisher of the printing concern or company which prints such foreclosure notice, at least five (5) days prior to the date of such sale, shall have mailed or delivered to the County Treasurer of the County in which said sale is to be held, a copy of such notice of mortgage sale. Such notice shall be mailed to the County Treasurer by registered mail, and shall contain a list of the personal property to be sold together with the name and address of the owners of such property. An affidavit stating the mailing or delivery of such notice to the County Treasurer shall be filed with the report of sale required to be filed in the office of the Register of Deeds, and no such foreclosure sale shall be valid unless such notice of sale shall have been mailed or delivered to the County Treasurer as herein provided. Upon receipt of such notice the County Treasurer shall ascertain whether the owner of such personal property has paid the taxes levied against him and if he finds that such taxes are due and owing he shall immediately notify the sheriff who shall, unless upon demand such tax is paid, distrain such property, or so much thereof as may be necessary, to pay such taxes thereon. No transfer of personal property, by bill of sale or otherwise, by the owner of such property to the holder of a lien thereon shall in any way affect the lien of personal property taxes assessed against such property.

§ 7. No personal property sold or transferred under a conditional sales contract shall be attached, repossessed, or acquired, by bill of sale, by the owner, holder or assignee of such conditional sales contract on account of cancellation or foreclosure of such contract until the taxes levied upon such personal property have been fully paid.

§ 8. Taxes upon stocks of goods of merchandise of any nature or description, fixtures and furniture in hotels, restaurants, rooming houses, billiard halls, moving picture shows, newspapers or printing establishments, and theatres shall be a lien thereon, and shall continue a lien thereon, when sold in bulk, and may be collected from the owner, purchaser, or vendee, and such owner, purchaser or vendee of any such goods, merchandise, furniture or fixtures shall be personally liable for all taxes thereon.

§ 9. REPEAL.] All Acts and parts of Acts in conflict with the provisions hereof are hereby repealed.

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

Approved March 10, 1931.

CHAPTER 280  
(S. B. No. 74—Putnam.)

CORRECTION PROPERTY ASSESSMENT

An Act to amend and re-enact Section 2304a1, Supplement to the Compiled Laws of 1913, relating to the correction of errors in the assessments of property, relating to the placing of omitted property, or property which has escaped taxation, upon the tax lists and declaring an emergency.

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

§ 1. That Section 2304a1 of the Supplement to the Compiled Laws of 1913 be and the same is hereby amended and re-enacted so as to read as follows:

§ 2304a1. OMISSION FROM ASSESSMENT; FALSE STATEMENT.] Whenever the County Auditor shall discover that taxable real or personal property has been omitted in whole or in part in the assessment of any year or years or that any building or other structure has been listed and assessed against a lot or tract of land other than the true site or actual location of such building, or that any person has given the assessor a false statement of his personal property or that the assessor has not returned the full amount of all property required to be listed in his district, or has omitted property subject to taxation, he shall proceed to correct the assessment books in accordance with the facts in the case and shall correct such error or omission in assessment and shall add such omitted property and assess it at its true and full value, and if a building or other structure, assessed as real estate is in the assessment thereof, described as though situated upon a lot or tract of land other than that upon which it is in fact situated, the Auditor shall correct the description and add the assessment thereof to the assessment of the lot upon which it is actually located; provided, however, that the rights or a purchaser for value without actual or constructive notice of such error or omission shall not be prejudiced by such correction, addition or assessment.

§ 2. EMERGENCY.] Whereas the Supreme Court of North Dakota has held that a building assessed against an erroneous description does not constitute property omitted from taxation;

Therefore, an emergency is hereby declared to exist and this Act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1931.

CHAPTER 281  
(H. B. No. 167—Traynor.)

ENFORCEMENT COLLECTION PERSONAL PROPERTY TAXES  
LIEN ON REAL ESTATE-TAX SALE LIST

An Act to amend and re-enact Subdivision G, Section 1 of Chapter 242 of the Session Laws of 1929, relating to the sale of real estate for personal property taxes entered and extended thereon and amending Section 2188 of the Compiled Laws of 1913 as amended and re-enacted by Section 2 of Chapter 242, Session Laws of 1929, relating to collection of delinquent real estate taxes and personal property taxes extended and entered thereon.

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

§ 1. AMENDMENT.] That subdivision G of Section 1 of Chapter 242 of the Session Laws of North Dakota for the year 1929 is hereby amended and re-enacted to read as follows:

Subdivision G. Collection of personal property taxes entered as a lien on real estate may be enforced by the sale of lands against which they are entered at any annual tax sale of such real property for taxes and in the same manner as if originally charged against such lands. The lands to be sold for personal property taxes entered and extended thereon shall be designated by resolution of the Board of County Commissioners.

§ 2. AMENDMENT.] That Section 2188 of the Compiled Laws of North Dakota for the year 1913 as amended and re-enacted by Section 2 of Chapter 242 of the Session Laws of 1929 is hereby amended and re-enacted to read as follows:

§ 2188. Whenever any taxes are paid, the Treasurer shall immediately write upon the tax list opposite the name or description in suitable column or columns for remarks, the word "Paid", with the number of the receipt given and the date when the tax was paid and the name of the person by whom the tax was paid.

On or before the tenth day of November in each year the County Treasurer shall make and deliver to the County Auditor a certified list of delinquent real estate taxes of the preceding year and the name of the party to whom assessed. The County Auditor shall compare the same with the statements receipted for by the Treasurer on file in the Auditor's office, and each tract or lot of real property against which the taxes or any part thereof remain unpaid shall be offered for sale at the annual tax sale in December unless paid prior to such sale. Each tract or lot against which personal property taxes have been entered and extended and designated for sale by resolution of the Board of County Commissioners, as provided for by Subdivision G of Section 1 of this Act, shall be sold for the full amount of unpaid real estate taxes and personal property taxes extended against the same.

Approved March 9, 1931.

CHAPTER 282  
(H. B. No. 230—Kneeland.)

ESTATE TAX

An Act to amend and re-enact Sections 2, 3, 8 and 11 of Chapter 267 of the Session Laws of 1927 pertaining to the estate tax.

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

§ 1. AMENDMENT.] Section 2 of Chapter 267 of the Laws of 1927 is amended and re-enacted to read as follows:

§ 2. (1) TAX ON TRANSFER OF ESTATES.] A tax shall be and is hereby imposed upon the transfer of the net estate of every decedent, whether in trust or otherwise, under the conditions and subject to the exemptions and limitations hereinafter prescribed.

(2) GROSS ESTATE.] The value of the gross estate of the decedent shall be determined by including the following property:

(A) When a resident of the State,

1. All real property within the State.

2. All tangible personal property except that which has an actual situs without the State.

(B) When a nonresident of this State.

1. All real property located within this State.

2. All tangible personal property having an actual situs within the State.

3. Sheriff's certificates of sale of real estate.

4. The full value of shares of stock in domestic corporations; provided, that transfers of such shares of stock shall not be taxed if, by the law of the State of decedent's residence at the date of his death, either (a) no inheritance tax or other death tax is imposed upon any form of intangible personalty of nonresident decedents, or (b) a like exemption is made in favor of residents of this State.

(C) All property transferred prior to and in contemplation of death. Any transfer of any part of the estate made by the decedent within two years prior to death without an equivalent monetary consideration shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this Section.

(D) All property transferred by the decedent prior to death by grant or gift without an equivalent monetary consideration, either intended to take effect at or after the death of the decedent.

(3) CONTRACTS IN CONTEMPLATION OF DEATH.] The gross value of the estate shall not be diminished by reason of any transfers due to the claim of any creditor against the estate arising from a contract made after the passage of this Act is payable by the term of such

contract at or after death of the decedent, except insofar as it may be affirmatively shown by competent evidence that such claim was legally due and payable in the life time of the decedent or was supported by a consideration of equivalent monetary value. This shall not, however, bring within the meaning of the statute any antenuptial agreements which shall for the purpose of this Act be considered as contracts creating a debt against the estate.

(4) **JOINT INTEREST.]** The gross estate of the decedent shall include the value of interests in property held as joint tenant or deposited in banks or other institutions in the joint names of the decedent and any other person and payable to either or the survivor. In all such cases the value of the decedent's interest shall be determined by dividing the value of the entire property by the number of joint tenants, joint depositors, or persons interested therein.

(5) **POWER OF APPOINTMENT.]** Transfers of property subject to the power of appointment, whether the power be exercised or not exercised, shall be taxable under this Act to the estate of the donor and shall not be taxable to the estate of the donee.

(6) **REVOCABLE AND IRREVOCABLE TRUSTS.]** Whenever a decedent has reserved unrestricted power of revocation of any trust created during his life time, such trusts shall be considered as a part of his estate and taxed accordingly. Where, however, the trust provided that only a portion of such property could be revested, only that portion shall be taxable as a part of the estate and the irrevocable portion of such trusts shall only be taxable when the transfer was made in contemplation of death or the possession or enjoyment thereof was intended to take effect at or after death. Whenever a donor of such a trust reserved a life income therefrom it shall be considered as a part of the estate and taxed accordingly.

(7) **PROPERTY PREVIOUSLY TAXED.]** A transfer of property which has paid a transfer tax to this State within five years shall be subject to a tax as though it had not been transferred, but wherever the property can be identified as having been received by the decedent by gift, bequest, devise, or inheritance within five years or can be identified as having been acquired in exchange for property so received a credit for the transfer taxes paid within five years upon his property shall be allowed upon the transfer tax; provided, however, that this credit shall not exceed the tax due under the present appraisal of such property for transfer tax purposes.

(8) **PROCEEDS FROM LIFE INSURANCE POLICIES.]** All proceeds from life insurance policies shall be exempt from taxation.

§ 2. **AMENDMENT.]** Section 3 of Chapter 267 of the Session Laws of 1927 is amended and re-enacted to read as follows:

§ 3. **RATE OF TAX.]** The tax upon the net estate shall be at the following rates:

1 per centum of the amount of the net estate not in excess of \$25,000;

1½ per centum of the amount by which the net estate exceeds \$25,000 and does not exceed \$50,000;

2 per centum of the amount by which the net estate exceeds \$50,000 and does not exceed \$100,000;

2½ per centum of the amount by which the net estate exceeds \$100,000 and does not exceed \$200,000;

3 per centum of the amount by which the net estate exceeds \$200,000 and does not exceed \$400,000;

3½ per centum of the amount by which the net estate exceeds \$400,000 and does not exceed \$600,000;

4 per centum of the amount by which the net estate exceeds \$600,000 and does not exceed \$800,000;

5 per centum of the amount by which the net estate exceeds \$800,000 and does not exceed \$1,000,000;

6 per centum of the amount by which the net estate exceeds \$1,000,000 and does not exceed \$1,500,000;

7 per centum of the amount by which the net estate exceeds \$1,500,000.

(2) DETERMINATION OF NET ESTATE.] For the purpose of this Act the value of the net estate shall be determined by deducting from the value of the gross estate:

(A) An exemption, not exceeding the amount specified in each case, of the value of property passing to each of the following beneficiaries:

1. Wife, not exceeding \$20,000.
2. Husband, not exceeding \$20,000.
3. Lineal ancestor or descendant, adopted child, step child, or lineal descendant of an adopted child or step child, not exceeding \$3,000, and if a minor, not exceeding \$5,000.

(B) The amount of all bequests, legacies, devises, or transfers, except bonafide sales for an equivalent monetary consideration in contemplation of or intended to take effect in possession or enjoyment at or after the decedent's death, to or for the use of the United States, Territory, or any political sub-division thereof, or the District of Columbia, or any public institution, for exclusively public purposes, or for any charitable, educational or religious purposes, or to or for the use of any corporation, institution, society, or association, whose sole object and purpose is to carry on charitable, education or religious

work, but no deduction shall be made if any officer, member, shareholder or employee of such corporation, institution, society or association shall receive or may be lawfully entitled to receive, any pecuniary profit from the operations thereof, except reasonable compensation, for services in effecting one or more of such purposes or as proper beneficiaries of a strictly charitable purpose; or if the organization thereof, for any such avowed purpose, be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation, institution, society or association, or for any of its members or employees, or if it be not in good faith organized or conducted exclusively for one or more of such purposes.

(C) All debts of the decedent.

(D) Taxes,

1. On real property within this State which were a lien at the date of decedent's death.

2. On the decedent's personal property, which was the personal obligation of the decedent during his lifetime, or a lien upon such personal property at the date of death.

3. State and Federal income taxes on the income of the decedent to the date of his death.

(E) Death duties paid to foreign countries on intangible personal property.

(F) Inheritance taxes paid or payable to other States on intangible personal property.

(G) Federal estate taxes paid and not refunded.

(H) Special assessments which are due and which are a lien on taxable property located within the State.

(I) Funeral expenses, and all amounts actually expended not exceeding the sum of five hundred (\$500.00) dollars for monuments.

(J) Commissions of executors and administrators actually allowed and paid.

(K) Cost of administration including reasonable attorney's fees.

The family allowance shall not be deductible in an amount exceeding two thousand dollars for the widow plus three hundred dollars for each minor child and shall not be deductible except to the extent that it exceeds the income of the estate.

In case decedent was a non resident and the situs of part of the property of the estate is outside this State, no part of the debts of decedent, nor of taxes other than real estate taxes, nor funeral and monument expense shall be deductible from the gross estate; provided, that if the aggregate amount of debts, taxes other than real estate



taxes and funeral and monument expense shall exceed the value of the personalty not taxable in this State there shall be deducted from the gross estate in this State such percentage thereof as the value of the property in this State above liens is of the value of all the property of the estate above liens.

If decedent was a resident of this State and the situs of part of the property of the estate is outside this State, debts, taxes other than real estate taxes and funeral and monument expense shall be deductible from the gross estate in this State unless the aggregate thereof exceeds the value of the personalty taxable in this State, in which case only such percentage thereof may be deducted as the value of the property in this State above liens is of the value of all the property of the estate above the liens.

If only a part of the property of an estate is taxable in this State only such commissions, attorneys fees and costs of administration may be deducted as are occasioned by administration within this State.

If only a part of the property of the estate is taxable within this State, deduction as exemptions shall be allowed of only such percentage of the amounts of exemptions herein specified as the property taxable within this State, above liens is of all the property of the estate, above liens.

Only such past due real estate taxes and past due special assessments may be deducted, in any circumstances, as are liens upon real estate within this State.

§ 5. AMENDMENT.] Section 8 of Chapter 267 of the Session Laws of 1927 is amended and re-enacted to read as follows:

§ 8. LIEN FOR TAXES.] All taxes imposed by this Act shall be and remain a lien upon the property transferred, and upon all property acquired by the executor, administrator, or trustee in substitution therefor until the taxes are paid or a bond given, but said lien shall not affect any tangible or intangible personal property after it has passed to a bona fide purchaser for value; provided, however, that nothing herein contained shall give the owner of any securities the right to have the same transferred to him by the corporation, association, company or trust issuing the same, until a permit required by this Act shall have been filed as herein provided. The lien charged as aforesaid upon any real estate or separate parcel thereof may be discharged by the payment of all taxes due and to become due on said real estate or separate parcel, or by the filing and acceptance of a bond as provided in this Act, or by an order of the County Court transferring such lien to other real estate owned by the person to whom said real estate or separate parcel thereof passes. The beneficiary shall be personally liable for the tax on such real estate, as well as the executor, administrator, or trustees; and if the executor, administrator, or trustee pays such tax, he shall, unless the same is

made an expense of administration by the will or other instrument, have the right to recover such tax or any other tax from the beneficiary acquiring such real estate. In case of a resident decedent, beneficiaries shall share the burden of the tax in proportion to benefits received unless otherwise provided by will. If a resident decedent leaves property outside of the State, beneficiaries shall share the aggregate burden of the estate tax payable in this State and transfer taxes payable in other states in proportion to aggregate benefits received here and elsewhere unless otherwise provided by will. If a nonresident decedent leaves property in this State, the entire tax imposed by this State shall be enforceable against any property of the estate but the court may, in its discretion, make such order or orders as may be best calculated to distribute the aggregate burden equitably in proportion to benefits received.

§ 4. AMENDMENT.] Section 11 of Chapter 267 of the Session Laws of 1927 is amended and re-enacted to read as follows:

§ 11. FORMS AND RECORDS.] The State Tax Commissioner shall have power to prescribe such forms, application blanks and printed matter as may be necessary for the carrying out and enforcement of this Act. He shall also keep such records as are indicated by good accounting practice in such manner as to furnish to the State Legislature intelligent information upon which to base further legislation in regard to these taxes. The approval by the Tax Commissioner of the determination of the amount of estate tax shall be required except in case of insolvent estates or estates of which nothing remains after payment of debts except what is disposed of under the provisions of Sections 8723 and 8725 of the Compiled Laws of 1918.

Approved March 11, 1931.

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CHAPTER 283  
(S. B. No. 165—Jones.)

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INCOME TAX

An Act to amend and re-enact Subdivision 10 of Section 2346a1 of the Supplement to the Compiled Laws of 1913, Section 2346a3 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 239, Session Laws of 1929, and Sections 2346a7, 2346a18, 2346a21 and 2346a46 of the Supplement to the Compiled Laws of 1913, relating to the taxation of income of individuals, fiduciaries and corporations, and declaring an emergency.

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

§ 1. AMENDMENT.] That Subdivision 10 of Section 2346a1 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2346a1. Subdivision 10. The word "Resident" applies only to natural persons and includes for the purpose of determining liability to the tax imposed by this Act upon or with reference to the income of any income year, any person domiciled in the State of North Dakota and any other person who maintains a permanent place of abode within the State, and spends in the aggregate more than seven (7) months of the income year within the State.

§ 2. AMENDMENT.] That Section 2346a3 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 239 of the laws of 1929 is hereby amended and re-enacted to read as follows:

§ 2346a3. IMPOSITION OF TAX AGAINST NON-RESIDENTS.] The tax imposed by this Act shall be levied, collected and paid annually upon and with respect to income derived from all property owned and from every business, trade, profession or occupation carried on in this State by natural persons not residents of the State. Such tax shall be levied, collected and paid annually at the rates specified in Section 2346a11 with respect to net income of residents of North Dakota. Nonresidents engaged in business within and without the State shall be taxed upon such income as is derived from business transacted and property located within the State which may be determined by a separate accounting of such income where such accounting would reflect correctly the income fairly attributable to North Dakota and when made in the form and manner prescribed by the Tax Commissioner, but otherwise shall be determined in the manner specified in Section 2346a6 or Section 2346a7 of the Supplement to the Compiled Laws of 1913 with respect to the allocation of income of corporations engaged in business within and without the State. Income of nonresidents derived from land contracts, mortgages, stocks, bond and securities or from the sale of similar intangible personal property shall not be taxed.

The provisions of law applicable to the assessment, levy and collection of income taxes from resident individuals, as to gross income, deductions allowed, items not deductible, personal exemptions and all other provisions not inconsistent with the provisions of this section shall govern the levy and collection of income taxes from nonresident individuals.

§ 3. AMENDMENT.] That Section 2346a7 of the Supplement to the Compiled Laws of North Dakota is hereby amended and re-enacted to read as follows:

§ 2346a7. ALLOCATION IN SPECIAL CASES: CONSOLIDATED RETURNS.]

(1) Any corporation organized under the Laws of North Dakota and subject to a tax under the provisions of this Act, which maintains no regular place of business outside this State, except a statutory office shall be taxed upon its entire net income.

(2) Corporations engaged in business within and without the State shall be taxed only on such income as is derived from business transacted and property located within the State. The amount of such income apportionable to North Dakota may be determined by an allocation and separate accounting thereof, when in the judgment of the Tax Commissioner that method will reasonably reflect the income properly assignable to this State.

(3) Any corporation liable to report under this Act and owning or controlling, either directly or indirectly, substantially all of the voting capital stock of another corporation, or of other corporations, may be required to make a consolidated report showing the combined net income, such assets of the corporation as are required for the purposes of this Act, and such other information as the Tax Commissioner may require, but excluding intercorporate stock-holdings and inter-corporate accounts.

Any corporation liable to report under this Act and owned or controlled either directly or indirectly, by another corporation may be required to make a report consolidated with the owning company, showing the combined net income, such assets of the corporation as are required for the purposes of this Act, and such other information as the Tax Commissioner may require, but excluding intercorporate stock-holdings and inter-corporate accounts.

In case it shall appear to the Tax Commissioner that any arrangement exists in such a manner as to improperly reflect the business done, the segregable assets or the entire net income earned from business done in this State, the Tax Commissioner is authorized and empowered, in such manner as he may determine, to equitably adjust the tax.

The Tax Commissioner may permit or require the filing of a combined report where substantially all the voting capital stock of two or more corporations liable to report under this Act is owned or controlled by the same interests. The Tax Commissioner may impose the tax provided by this Act as though the combined entire net income and segregated assets were those of one corporation, but in the computation, dividends received from any corporation whose assets, as distinguished from shares of stock, are included in the segregations shall not be included in net income.

(4) When any corporation required to make a return under this Act conducts the business, whether under agreement or otherwise, in such manner as either directly or indirectly to benefit the members or stockholders of the corporation, or any of them, or any person or persons, directly or indirectly interested in such business by selling its products or the goods or commodities in which it deals at less than a fair price which might be obtained therefor, or where such a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires

and disposes of the products of the corporations so owning the substantial portion of its capital stock in such manner as to create a loss or improper net income, the Tax Commissioner may require such facts as he deems necessary for the proper computation provided by this Act, and may for the purpose of the Act determine the amount which shall be deemed to be the entire net income of the business of such corporation for the calendar or fiscal year, and in determining such entire net income the Tax Commissioner shall have regard to the fair profits which, but for any agreement, arrangement or understanding, might be or could have been obtained from dealing in such products, goods or commodities.

(5) If it shall appear to the Tax Commissioner that the segregation of assets shown by any report made under this Act does not properly reflect the corporate activity or business done, or the income earned from corporate activity or from business done in this State because of the character of the corporation's business and the character and location of its assets, the Tax Commissioner is authorized and empowered to equitably adjust the tax.

(6) In determining the entire net income for purposes of equitable taxation under this section, the Tax Commissioner may determine the portion of net income derived from business done within the State by an allocation upon the basis of sales, purchases, expenses of manufacture, payroll, value and situs of tangible property, or by reference to these or other factors, or by such other method of allocation as is fairly calculated to assign to the State the portion of net income reasonably attributable to the business done within this State. In determining the entire net income for purposes of equitable taxation under this Act, the Tax Commissioner may include income from any source provided only that the assets from which the income was derived shall be included in any segregation for the purpose of computing the tax.

(7) In case any corporation or individual uses leased property in its business the value of the leasehold interest of the lessee shall be included in the value of the tangible property of the corporation for purposes of allocation of net income.

(8) The income of a partnership shall be allocated to North Dakota and outside North Dakota in the same manner as is hereinbefore provided in the case of corporations.

§ 4. AMENDMENT.] Section 2346a18 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2346a18. Deductions allowed. In computing net income, there shall be allowed as deductions:

(1) All the ordinary and necessary expenses paid during the income year in the carrying on of any trade or business including a reasonable allowance for salaries or other compensation for personal

services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession, for the purpose of the trade or business, of property to which the taxpayer has not taken or is not taking title, or in which he has no equity.

(2) Interest paid or accrued within the year on taxpayer's indebtedness.

(3) Taxes paid or accrued within the income year upon property or business, but not including those assessed against local benefits of a kind tending to increase the value of the property assessed. Federal income taxes may be deducted to the extent such taxes represent a tax paid on income taxable under this Act.

(4) Losses actually sustained within the year and not compensated by insurance or otherwise, provided that no loss may be allowed in the sale of property purchased and held for pleasure or recreation and which was not acquired or used for profit but this proviso shall not be construed to exclude losses due to theft or the destruction of property by fire, flood or other casualty, or a loss sustained in any sale of the residence of the taxpayer. In the case of a taxpayer other than a resident of the State, losses shall be allowed only as to transactions in real property or in tangible personal property having an actual situs in this State and losses in connection with any business, trade, profession or occupation carried on in this State.

(5) Debts ascertained to be worthless and charged off within the income year. In the case of a debt existing on January first, nineteen hundred and nineteen, no more than its fair market value on that date shall be deducted. A worthless debt arising since January first, nineteen hundred and nineteen, from unpaid wages, salary, rent or any other similar item of taxable income, is not an allowable deduction unless the income which such item represents has been included as income by the taxpayer in a return rendered under this Act.

(6) A reasonable allowance for necessary repairs and a reasonable allowance for depreciation by use, wear and tear of property used in business or trade, and in case of mines, oil and gas wells or other natural deposits, a reasonable allowance for depletion of ores and other natural deposits on the basis of their actual original cost in cash or in the equivalent of cash, and including cost of development, and in case of property acquired prior to January 1, 1919, the fair market value on that date shall be taken in lieu of cost up to that date.

(7) Dividends or income received by any person from stock or interest in any corporation, the income of which shall have been assessed under this Act; provided, that when only a part of the income of any corporation shall have been assessed under this Act, only a corresponding part of the dividends or income received therefrom shall be deducted.

(8) Contributions or gifts made within the income year to (a) the State of North Dakota, or any political subdivision thereof, exclusively for public purposes, or (b) to any community chest, corporation, association or trust, or fund, or foundation, organized and operated exclusive for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual; or (c) to posts or organization, of war veterans or auxiliary units or societies of such organizations, if such posts, organizations, units or societies are within North Dakota and if no part of their net income inures (inures) to the benefit of any private shareholder or individual; provided, that such contributions or gifts may be deducted only to an amount which in all the above cases combined does not exceed fifteen per cent (15%) of the taxpayer's net income as computed without the benefit of this subsection.

§ 5. That Section 2346a21 of the Supplement to the Compiled Laws of 1913 is amended and re-enacted to read as follows:

§ 2346a21. RETURN. DUTY TO MAKE.] (a) Every individual subject to taxation under the provisions of this Act, having a net income during the incoming year of \$1,000 or over, if single, or if married and not living with husband or wife, or having a net income for the fiscal year of \$2,000 or over, if married and living with husband or wife, and every individual having a gross income during the income year of \$5,000 or more, regardless of the amount of his net income, shall make a return, under oath, stating specifically the items of his gross income and the deductions and exemptions allowed by this Act.

(b) If a husband or wife living together have an aggregate net income of \$2,000 or over, each shall make such a return, unless the income of each is included in a single joint return.

(c) If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

(d) Every fiduciary subject to taxation under the provisions of this article as provided in Section 2346a13 of the Supplement to the Compiled Laws of 1913, hereof, shall make a return under oath for the individual estate or trust for whom or for which he acts, if the net income thereof amounts to \$1,000 or over.

(e) The return made by a fiduciary shall state specifically the items of gross income and the deductions and exemptions allowed by this Act, and such other facts as the Tax Commissioner may prescribe. Under such regulations as the Tax Commissioner may prescribe, a return may be made by one or more joint fiduciaries.

(f) Fiduciaries required to make return under this Act shall be subject to all of the provisions of this Act which apply to individuals.

§ 6. Section 2346a46 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2346a46. NET LOSSES.] (a) Definition of "Net Loss." As used in this Act the term "net loss" means the excess of the deductions allowed by this Act over the gross income, with the following exceptions and limitations.

(1) Non-business deductions. Deductions otherwise allowed by law not attributable to the operation of a trade or business regularly carried on by the taxpayer shall be allowed only to the extent of the amount of the gross income not derived from such trade or business.

(2) Dividends. The deductions provided for in Section 2346a18, Paragraph 7, and in Section 2346a30, Paragraph 7 of amounts received as dividends shall not be allowed.

(3) Interest. There shall be included in computing gross income the amount of interest received free from tax under this Act, decreased by the amount of interest paid or accrued which is not allowed as a deduction under this Act.

(4) Net loss not to produce net loss. In computing the net loss for any income year a net loss for a prior year shall not be allowed as a deduction.

(b) Net Loss as a Deduction. If, for any income year, it appears upon the production of evidence satisfactory to the Tax Commissioner that any taxpayer has sustained a net loss, the amount thereof shall be allowed as a deduction in computing the net income of the taxpayer for the succeeding income year, and if such net loss is in excess of such net income (computed without such deduction), the amount of such excess shall be allowed as a deduction in computing the net income for the next succeeding income year; the deduction in all cases to be made under regulations prescribed by the Tax Commissioner.

§ 7. The provisions of this Act shall be applicable to the assessment levy and collection of income taxes for the calendar year 1930 and for any income year ending in 1930. The sections amended by this Act shall remain in force and effect for the assessment, levy and collection of all taxes imposed thereby, and for the assessment, imposition and collection of all interest, penalties, or forfeitures which have accrued or which may accrue in relation to any such taxes.

§ 8. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in force and effect from and after its passage and approval.

Approved March 11, 1931.



CHAPTER 284  
(H. B. No. 36—Cox.)

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TIME LIMIT REVISION INCOME TAX

An Act to amend and re-enact Section 2346a34 of the 1925 Supplement to the Compiled Laws of 1913 as amended by Chapter 240 of the Laws of 1929, and to extend the time within which additional taxes may be assessed upon certain income returns, and declaring an emergency.

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

§ 1. Amended. That Section 2346a34 of the 1925 Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 2346a34. The tax appearing on the face of the return shall be paid at the same time the report is filed. The taxpayer shall attach to his report his remittances for the amount of tax due as computed by him. Provided that the payments may be made in quarterly installments, and if paid in installments the first installment shall be paid at the time fixed by law for filing of the return; the second installment shall be paid on the fifteenth day of the third month; the third installment on the fifteenth day of the sixth month; and the fourth installment, on the fifteenth day of the ninth month after the time fixed by law for filing the return. The Tax Commissioner, shall as soon as possible after the receipt of the report and remittance issue a receipt to the taxpayer for the amount of his remittance. Such receipt shall not be a receipt in full for the amount of tax due, but only for the remittance made by the taxpayer. The Tax Commissioner shall proceed to audit the reports of taxpayers and not later than three years after the due date of the return assess the tax and if any additional tax is found due, shall notify the taxpayer in detail as to the reason for the increase; provided, however, that the time within which the Tax Commissioner may audit returns of income for the calendar year 1927 and returns for a fiscal year ending during the calendar year 1928 and assess additional taxes thereon is hereby extended to December 31st, 1931. The taxpayer shall be given thirty days from the date of such notice to file objections to the additional tax, either in person or by attorney. Unless such objections are filed, said tax shall become delinquent forty-five days after notice. If objections are filed, the objections shall be considered by the Tax Commissioner who may call for any further information from the taxpayer that he deems necessary to make a fair determination. After making a redetermination of the disputed tax, the Tax Commissioner shall notify the taxpayer of his findings and the amount of tax as redetermined shall become delinquent fifteen days after notice. Interest at the rate of one per cent (1%) a month shall be computed upon all delinquent income tax payments with an additional

penalty of five per cent (5%) at the time such tax becomes delinquent. Any unpaid taxes shall be collected by the procedure outlined in Chapter 58, Special Session Laws of 1919, for the collection of delinquent taxes.

§ 2. EMERGENCY. This Act is hereby declared to be an emergency measure due to the fact that income tax files were destroyed in the recent fire and the period limited by statute is about to expire; and it shall be in full force and effect from and after its passage and approval.

Approved March 7, 1931.

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CHAPTER 285  
(S. B. No. 158—Murphy.)

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**NOTICE EXPIRATION REDEMPTION LAND SOLD FOR TAXES**

An Act to amend and re-enact Section 2223 of the Supplement to the Compiled Laws of 1913, relating to notice of expiration of period of redemption, the rights of certificate holders, mortgagees, or assignees thereof and prescribing the duties of the county auditor in connection therewith.

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

§ 1. That Section 2223 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted so as to read as follows:

§ 2223. NOTICE OF EXPIRATION OF REDEMPTION; CERTIFICATE HOLDERS; MORTGAGEES; ASSIGNEES; AUDITOR. Every person holding a tax sale certificate may at any time after the expiration of the statutory period of redemption, and before the expiration of six years from the date of such tax sale certificate, present such certificate to the County Auditor and thereupon the Auditor shall prepare under his hand and seal, a notice to the person in whose name such lands are assessed, and to all mortgagees, or assignees of mortgagees holding unsatisfied recorded mortgages, specifying in such notice the description of such lands, the amount for which the same were sold, the amount required to redeem such lands from sale, exclusive of the costs to accrue upon such notice, and the time when the redemption period will expire, which notice the Auditor shall cause to be delivered to the Sheriff or his deputy who shall serve it personally, or cause it to be so served upon the owner, if known to be a resident of the State, but if the owner be a nonresident of the State, such notice shall be served by registered mail addressed to such owner at his last known postoffice address, and by the publication once in each week, for three consecutive weeks in some newspaper printed and published in the County where such lands are situated, and if no newspaper is published therein, then in some newspaper printed and published at

the Capital of the State. In case the property covered by such certificate is occupied then such notice shall also be personally served upon the person in possession thereof. Proof of service of such notice must be filed in the office of the County Auditor and no deed shall issue until such proof has been duly filed. The fees for serving, and the printer's fee for publishing, such notice shall be added to the amount required to redeem such land, and shall be paid by the party offering to redeem such land before any certificate of redemption shall be issued. The County shall not be liable for any expense incurred under the provisions of this section and whenever a tax sale certificate is presented to the County Auditor, as hereinbefore provided, the Auditor shall estimate the fees for serving such notice and the cost of publication thereof and shall require the holder of such tax sale certificate to deposit with the Auditor the amount of such estimated fees and costs and if such amount is afterwards found to be excessive the excess shall be refunded to the holder of such certificate. The time for redemption of such lands shall expire ninety (90) days after the service and publication of such notice. Such tax sale certificate, and also any subsequent taxes paid by the holder thereof shall continue to draw interest until said taxes are paid or redeemed. Duplicate copies of the notice of expiration of period of redemption shall be prepared by the County Auditor and said copies shall be mailed to mortgagees, and assignees of mortgagees holding unsatisfied mortgages on said land as shown by the records in the office of the Register of Deeds, by registered letter addressed to such mortgagees or assignees at least ninety (90) days before the time for redemption expires, if any such mortgagee or assignee has in writing requested the County Auditor to mail him such duplicate notice and has paid to the Auditor, as a fee for preparing and mailing the same, the sum of one dollar and fifty cents (\$1.50).

Approved March 11, 1931.

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## CHAPTER 286

(H. B. No. 23—Johnson.)

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### PAYMENT OF TAXES UNDER PROTEST, ETC.

An Act relating to the payment of taxes under protest; limiting the time in which application may be filed for the refundment thereof; limiting the time in which an action may be commenced for the recovery of taxes so paid; providing for the right of appeal; prescribing the duty of the county treasurer with reference to taxes paid under protest; repealing all acts and parts of acts in conflict herewith.

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

§ 1. That any person (including any firm or corporation) against whom any tax is levied, or who may be required to pay the

same, who pays such tax under protest to the County Treasurer, giving notice at the time of payment of the reasons for such protest, may in writing at any time within SIXTY (60) DAYS thereafter apply to the Board of County Commissioners, under the provisions of Section 2241c of the 1925 Supplement to the Compiled Laws of North Dakota for the year 1913, for an abatement, adjustment or refundment of taxes thus paid and may within SIXTY (60) DAYS after notice of rejection of such application commence an action against such County Treasurer for the recovery thereof. Such application shall show the post office address of the applicant and notice by registered mail addressed to such applicant shall be notice of rejection of applicant's claim. If the court determines that such tax was unlawfully collected, in whole or in part, for any reason going or pertaining to the merits of the tax, it shall enter judgment accordingly and such judgment shall be paid upon final determination of the action. Both parties shall have the right of appeal as in other actions.

§ 2. Whenever taxes have been paid under protest the County Treasurer shall keep money thus paid and collected in a separate fund known as "Taxes Paid Under Protest Fund" and such moneys shall not be paid or disbursed to the State, to any fund of the County, or to any local taxing district until the period prescribed in Section One (1) of this Act has expired, and in case an action is commenced, the County Treasurer shall retain in such fund until such action shall be finally determined, that part of portion of the tax, paid under protest, which the plaintiff in his complaint, contends is invalid or illegal.

§ 3. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

Approved March 7, 1931.

#### CHAPTER 287

(S. B. No. 178—Committee on Tax and Tax Laws.)

#### REAL PROPERTY TAXING AREA; DIVISION TRACTS JOINTLY ASSESSED; PARTIAL REDEMPTION

An Act relating to the area of real property which may be assessed and taxed as a unit, providing for the division of tracts of land jointly assessed and taxed, and for the redemption of a part or parts thereof, and declaring an emergency.

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

§ 1. In all assessment books and tax lists and in all proceedings for the collection of taxes and proceedings founded thereon, land not situated within the limits of an incorporated city or village shall be described in subdivisions not exceeding quarter sections; real property in the platted portion of a city or village shall be separately assessed as to each lot, provided, however, that where a building or structure covers two or more contiguous lots or parts of lots owned

by the same person, firm or corporation, the assessment shall not be entered separately as to each lot or part of lot but the tract upon which the building is located shall be described and assessed as one parcel, and provided further, that blocks that have not been subdivided may be described, assessed and taxed in units of one block; provided, however, that failure to comply with the provisions of this section shall not impair the validity of taxes.

§ 2. In case a mortgage, or lien, or Sheriff's certificate, or conveyance, affects only a part of the real estate taxed as a unit, any person interested therein may petition the County Auditor that he be permitted to pay taxes and make redemption from tax sale as to that part only of the real estate in which he is interested. Such petition shall set forth his interest in the property, it shall be verified and may be in the form of an affidavit, and shall state the petitioner's interest in such property. Immediately upon the receipt of such petition the County Auditor shall consider such petition and make a fair and equitable valuation of the whole tract and shall apportion to the petitioner such part of the taxes, interest and penalty to be paid by him, in order to effect redemption, as the value of the part or parcel of land in which he claims an interest bears to the assessed tract of land. Thereupon the County Auditor, shall by registered mail notify all persons interested in such real property shown of record either as owner, or as the holder of a mortgage, or other lien, or Sheriff's certificate, of the filing of such petition and of his assessment of such tract or parcel of land and of his apportionment of the taxes thereon and the date when the same will be considered and heard by him, which hearing shall not be sooner than ten (10) days after the mailing of such notice. Upon the date set the County Auditor shall hear the parties interested and shall make such assessment of said tract and apportion the taxes thereon as he shall deem fair and equitable.

§ 3. In case any interested person is dissatisfied with the determination of the County Auditor, he may, within five (5) days after such hearing and determination by said Auditor, file with him a written request that the matter be considered by the Board of County Commissioners. The County Auditor shall thereupon notify by registered mail all persons having a record interest in such land of the date when the matter will be heard by the Board, which date shall not be sooner than ten (10) days after the mailing of such notice. Provided, however, said hearing shall be held at the next special regular meeting of the Board after said ten day period of notification has expired. Upon the date set the Board of County Commissioners shall hear the parties interested and shall make such division of the assessed valuation of the tract of land in question, and apportion the taxes thereon, as said Board shall deem to be fair and equitable.

§ 4. Any person dissatisfied with the order and determination of the Board of County Commissioners, may in accordance with the procedure provided for in Sections 3298 and 3299 of the Compiled

Laws of 1913 or Acts amendatory thereof, within fifteen (15) days after such determination, decision or order of the County Board, appeal therefrom to the District Court. When any person under the provisions of Section 2 files with the County Auditor a petition that he be permitted to pay taxes or make redemption from tax sale as to a part only of real estate in which he is interested, the issuance of a tax deed, thereon and all proceedings preliminary thereto shall be stayed until the matter is finally determined and settled.

§ 5. Upon payment by the petitioner of the amount as finally apportioned, a tax receipt or certificate of redemption, or both, as the case may be, shall be issued to such petitioner by the County Auditor. If there be outstanding tax certificates the proper amount of the proceeds of such redemption shall be paid to the holders of such certificates. The original certificate or certificates shall be deposited with, and cancelled by, the County Auditor and he shall issue in lieu thereof a tax sale certificate which shall be entitled "Substitute Tax Sale Certificate" and which shall be in substantially the following form:

SUBSTITUTE TAX SALE CERTIFICATE

I.....Auditor of the County of .....in the State of North Dakota, do hereby certify that the following described real estate situated in said County and State to-wit:.....

..... was together with other real estate on the.....day of....., 19.....sold by me in the manner provided by law for the delinquent taxes thereon for the year.....to....., he being the bidder who agreed to accept the lowest rate of interest thereon from the date of sale upon amount of taxes, penalties and interest paid by him and that the rate of interest which said purchaser agreed to accept was.... per cent per annum and thereafter redemption was made from said tax sale of a portion of the real estate then sold to said purchaser, that redemption of the above described real estate was not made, and I further certify that unless redemption of the above described real estate is made in the manner provided by law the said..... or assigns will be entitled to a deed of the property above described on and after the.....day of.....19.....on the surrender of this certificate, and I further certify that there remains due and unpaid upon this certificate the sum of \$.....together with interest thereon at.....per cent per annum from the..... day of ....., 19.....

In witness whereof I have hereunto set my hand and the seal of the County Auditor of said County this.....day of.....19.....

..... County Auditor of.....County.

Such substitute certificate shall have the same force and effect as the original certificate as to property covered thereby. The County Treasurer and County Auditor shall make the proper entries in

the tax records of their offices showing the payment of the taxes and the cancellation of the original certificate and the issuance of the substitute tax certificate.

§ 6. All Acts and parts of Acts in conflict herewith are hereby repealed.

§ 7. EMERGENCY.] An emergency is hereby declared to exist and this Act shall be in force and effect from and after the date of its passage and approval.

Approved March 11, 1931.

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### CHAPTER 288

(H. B. No. 77—Twete.)

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#### SALE PROPERTY ACQUIRED BY COUNTY THROUGH TAX DEED

An Act to amend and re-enact Subdivision 6 of Section 1, of Chapter 266 of the 1927 Session Laws of the State of North Dakota, relating to the sale of property acquired by county through tax deed.

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

§ 1. AMENDMENT.] That Subdivision 6 of Section 1, of Chapter 266, of the 1927 Session Laws of the State of North Dakota be amended and re-enacted to read as follows:

§ 2. SALE OF PROPERTY ACQUIRED BY COUNTY THROUGH TAX DEED.] Property so acquired by tax deed shall, under the direction of the board of county commissioners be sold at public or private sale, notice of which shall be given by posting at the front door of the court house thirty (30) days prior to the sale, a description of the parcels to be sold and if the assessed value of such property exceeds \$100.00 by publishing a notice of such sale in the official newspaper of the county, giving a description of the parcels to be sold, such notice to be published at least once in each week for two consecutive weeks prior to the date of the sale. The description of all parcels of real estate to be sold at such sale shall be included in a single notice.

Before publishing such notice the board of county commissioners shall appraise each lot or parcel of land and fix a tentative minimum sales price thereon. Such minimum sales price shall be sufficient to cover all general taxes, special assessments, penalties, interest and costs which were charged against the property and which were delinquent at the time notice of the expiration of period of redemption was issued plus cost of service of such notice; provided if the fair cash value of the property is less than the aggregate of such general taxes, special assessments, penalties, interest and costs the board shall fix a fair and equitable minimum sales price. The board shall thereupon set a date for hearing objections to the minimum sales

price thus determined and the county auditor shall, at least ten (10) days previous to such hearing, mail to the auditor of any city, or the clerk of any village, or of any township board where such lots or tracts of land are located, a notice in writing that at the time and place mentioned therein objections to the minimum price fixed by the board, and specified in such notice, will be heard. At such hearing any member of the governing body of any such city, village or township or any representative thereof, shall be heard with reference to the fair value of such lot or parcel of land, and the board shall thereupon make such modifications and changes in the sales price of such property as it shall deem to be fair and just. The governing body of any such city, village or township may, if dissatisfied with the action of the board, appeal therefrom within ten (10) days after such hearing and determination to the district court and the perfecting of such appeal shall conform to the procedure prescribed by Sections 3298 and 3299 of the Compiled Laws of 1913, or acts amendatory thereof, except that no bond shall be required to perfect such appeal. All such determinations of value which in the opinion of any such governing body are too low shall be combined in one appeal and shall be heard de novo by the court without a jury.

The board of county commissioners may fix the minimum sales price at an amount sufficient to cover all general taxes, special assessment taxes, penalties, interest and costs which were a charge against the property and which were delinquent at the time notice of expiration of period of redemption was issued plus cost of service of said notice; provided, such amount shall not exceed the fair cash value of the property. The foregoing provision is intended to cover those cases where general taxes were struck off to the county and special assessment taxes were struck off to the city and were not included in the tax forfeiture proceedings of the county.

None of the foregoing provisions is intended to limit the minimum price which the board of county commissioners is required to fix, at less than their determination of the fair cash value of the tax title which the county is empowered to give.

Such sale shall take place at the county seat on the second Tuesday of June in each year and shall continue from day to day until completed.

Each parcel shall be sold to the highest bidder therefor but not for a sum less than the minimum sales price finally fixed by the board of county commissioners unless the governing body of the city, village or township where such property is located by resolution, consents to an amount less than such minimum price.

Such sale may be either for cash or for one-fourth of the purchase price in cash and the balance in equal annual payments not



to exceed a period of ten years; provided, however, that any purchaser may at any time within said ten year period pay any or all unpaid installments.

If the sale is for part cash, the purchaser shall forthwith pay the amount of the first installment of the bid to the county treasurer.

Whereupon the purchaser shall be given a contract for deed, setting forth the terms of the said sale executed in the name of the county by the chairman of the board of county commissioners and the county auditor.

Such contract shall be in the usual form and shall give the county the right, upon failure to comply with all the terms and conditions of the said contract by the purchaser, to cancel the said contract in manner and form now provided for by law between private individuals. Upon the execution and delivery of the said contract the real estate described therein shall be placed upon the assessment roll and be subject to assessment and taxation the same as though a deed had been issued therefor.

Such unpaid balance of purchase price shall draw interest at the rate of five per cent per annum upon all unpaid balances. Upon the payment of the balance due upon the said contract the county shall execute and deliver to the purchaser a deed conveying all right, title and interest, in and to such property.

If the sale is for cash the purchaser shall forthwith pay the amount so bid, to the county treasurer.

Upon complying with such requirements, the purchaser shall be given a deed executed in the name of the county by the chairman of the board of county commissioners and the county auditor, conveying all rights, title and interest in and to such property acquired by the county through the tax proceedings, which deed may be substantially in the following form:

#### TAX DEED

This Indenture, made this.....day of....., 193....., between the County of.....North Dakota, party of the first part, acting by and through the chairman of its board of county commissioners and its county auditor, and....., party of the second part, witnesseth:

That, whereas, the real property hereinafter described did revert to and become the property of said county on account of the non-payment of taxes assessed and levied against the same for the years .....and....., and the said taxes, interest and penalties aggregating in the sum of.....Dollars, and

Whereas, in conformity with law the said property was duly offered for sale pursuant to law on the .....day of.....,

193...., and at said sale said second party became the purchaser of the whole thereof for the sum of.....Dollars,

Now, therefore, the said County as party of the first part, in consideration of the premises and in pursuance of the statutes in such case made and provided, does hereby grant, bargain, sell and convey to the said second party, his heirs and assigns, that certain real property situated in the said County of....., North Dakota, more particularly described as follows, to-wit:

To Have and to Hold, said mentioned tract.....or parcel..... of land, with the appurtenances thereunto belonging to the said party of the second part.....heirs, and assigns, forever, in as full and ample manner as the said County is empowered by law to sell the same.

In Witness Whereof.....and..... as chairman of the board of county commissioners and auditor respectively of the said County, do hereby set their hands the day and year first above written, and do cause the seal of said County to be affixed hereto.

.....County,  
North Dakota.

By.....  
Chairman of the Board of County Commissioners.

.....  
County Auditor.

State of North Dakota, }  
County of..... } ss.

On this.....day of....., 193...., personally appeared before me, a Notary Public within the aforesaid county and state, .....and.....to me personally known to be the chairman of the board of county commissioners and the auditor, respectively, of the said County and each acknowledged to me that he executed the foregoing deed on behalf of the said County.

.....  
Notary Public for.....County, N. D.  
My commission expires.....

Whenever in any action at law or in equity, the validity of any such tax deed is questioned, upon the pleadings or otherwise, such action shall not proceed until the party assailing such deed shall within such time as the Court shall deem reasonable deposit in Court for the benefit of the party claiming thereunder, an amount equal to the sum paid by said party to the county for the purchase of the property covered by the tax deed together with costs and disbursements of the action then incurred by the party claiming under such deed.

Approved March 7, 1931.

## CHAPTER 289

(H. B. No. 243—Traynor.)

SALE REAL ESTATE FOR DELINQUENT TAXES AND  
DELINQUENT HAIL INDEMNITY TAXES

An Act to amend and re-enact Section 2191 of the Supplement to the Compiled Laws of 1913, relating to the sale of real estate for delinquent taxes and delinquent hail indemnity taxes.

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

§ 1. AMENDMENT.] That Section 2191 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2191. AUDITOR TO SELL AT PUBLIC VENDUE.] Said sale shall be made at public auction at the office of the county auditor or usual place of holding court in the same building, and shall commence at the hour of ten (10) o'clock in the forenoon, but may be adjourned from day to day for a period of ten (10) days whenever it is necessary for the disposal of the lands advertised.

Before any tract or parcel of land is offered for sale, the auditor shall announce the total amount of taxes, including penalties and interest thereon, and the part representing personal property taxes (if any) entered and extended against such land. General taxes and hail indemnity taxes shall be advertised together but separately stated and sold separately. The total cost of publishing such delinquent tax list shall be assessed against each description of real property so advertised and shall be in addition to and collected at the same time and in the same manner as if it had been part of the original tax. The lands and lots shall be offered for sale by the county auditor or his deputy, in the order in which they appear in the advertised list, and each tract or lot shall be offered separately and struck off to the bidder who will pay the total amount of taxes, special assessments, or installments of special assessments, and penalties and costs charged against it, including any personal taxes specified in the list and in the advertisement, which are a lien upon it, and who will agree to accept the lowest rate of interest from the date of sale on the amount of such taxes, penalties and costs so paid by him, which rate shall in no case exceed nine per cent (9%) per annum. Lands and lots shall be offered separately for sale for hail insurance taxes and struck off to the bidder who will pay the total amount of hail insurance taxes, penalties and costs charged against it, which are a lien upon it, and who will agree to accept the lowest rate of interest from the date of sale on the amount of such taxes, penalties and costs so paid by him, which rate shall in no case exceed nine per cent (9%) per annum. If the sum bid for any tract or lot of land is not paid before the sale closes, such tract or lot shall again be offered for sale in like manner.

It shall be unlawful for the bidders at such sale to enter into any understanding or agreement direct or indirect to stifle competition, by bidding in rotation or turn, or in refraining from bidding to give others opportunity to acquire particular tracts without competition, and upon discovering any such combination, understanding or agreement to exist, or upon the development of any system of bidding in rotation or systematic refraining from bidding to avoid competition it shall be the duty of the auditor to refuse to accept bids made in furtherance of any such scheme, combination or understanding, and he may if he shall deem it probable that sales already made have been to bidders in any such combination, declare all such sales rescinded, and proceed to re-sell the same, or adjourn the sale from day to day for not to exceed ten (10) days until a proper sale can be had.

The county treasurer shall attend the sale and receive all moneys paid thereon and when any tract of land or lot remains unsold for want of bidders, the same shall again be offered before the sale closes, and if there is no other bidder he shall bid for the same in the name of the county and the same shall be struck off and become forfeited to the county in which the sale takes place, such county acquiring all the rights both legal and equitable that a person could acquire by reason of a purchase at such sale. Such tract or lot shall be assessed and taxed like other real estate until the period of redemption expires but shall not again be offered for sale for such subsequent taxes unless the county has made an assignment of the certificate of sale.

Whenever any real property shall be sold to the county, the county auditor shall make out certificate of sale to the county in the same manner as if sale had been made to any other person which certificate shall be retained by the county treasurer; but no tax receipt shall be issued and no amount due the state or any taxing district shall be paid by the county until the county has received payment, either through redemption or sale of the property or assignment of the certificate. A certificate so issued to the county shall bear interest at the rate of nine per cent (9%) per annum.

The county auditor, upon the order of the board of county commissioners shall defer the sale of any parcel of real estate for unpaid taxes until the delinquent taxes thereon, together with accrued penalty and interest, shall amount in the aggregate to the sum of five dollars (\$5.00) or such lesser sum as the board may determine upon. In any case where such tax sale shall be deferred upon the order of the board of county commissioners, the publication of delinquent tax list shall not include parcels not offered for sale. Such real estate may be included in the notice of tax sale and sold at the tax sale of any subsequent year, and in such notice the combined aggregate amount of all delinquent taxes, except hail indemnity taxes, against each parcel may be set forth in a single lump

sum and a single sale made for all delinquent taxes, penalties and interest against each parcel. The aggregate of all hail indemnity taxes against each parcel may be set forth in a single lump sum and a single sale made for all such delinquent taxes, penalties and interest against each parcel. It shall not be necessary for the notice of sale to contain anything to indicate that such amount or amounts includes taxes of more than one year. The omission of sale upon order of the board of county commissioners, or by error or otherwise, shall not invalidate any subsequent tax sale. Property inadvertently omitted from any tax sale may be sold at the tax sale of any subsequent year in a similar manner as though its sale had been purposely deferred and this may be done even though the amount of taxes against it, or hail indemnity taxes, when thus inadvertently omitted is in excess of five dollars (\$5.00).

Approved March 11, 1931.

#### CHAPTER 290

(H. B. No. 159—Olafson.)

#### SUSPENDING COLLECTION TAX CERTIFICATES HELD BY COUNTY ON LANDS ACQUIRED BY STATE TREASURER AS TRUSTEE

An Act providing that the right of any county holding a tax certificate, or other tax lien on lands acquired by the State Treasurer as Trustee of the State of North Dakota under the provisions of Chapter 154 of the Session Laws of North Dakota for 1919 and Chapter 292 of the Session Laws of North Dakota for 1923 and acts amendatory thereof, to enforce the collection of the same, shall be suspended; providing the rate of interest such tax certificates and tax liens shall bear; and prohibiting the assignment or transfer of all tax certificates or tax liens held by the county on any lands that have been foreclosed under said acts.

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

§ 1. In all cases where the State Treasurer as Trustee of the State of North Dakota has heretofore, or hereafter acquires the title to any lands within the State of North Dakota under the provisions of Chapter 154 of the Session Laws of North Dakota for 1919 and Chapter 292 of the Session Laws of North Dakota for 1923, and acts amendatory thereof, and there are outstanding against such lands tax certificates held by the county, the right of the county to acquire a tax deed thereto, or to otherwise enforce the collection of its tax certificates or other tax liens against said lands shall be wholly suspended, and any proceedings taken to acquire title by tax deed, or to otherwise enforce such tax liens shall be null and void; provided, that upon the resale of any such lands, either by deed or contract, the right of the county to enforce its tax certificates or tax liens in the manner provided by law shall thereupon be restored and shall thereafter remain in full force and effect.

§ 2. From and after the date of acquiring title by the State Treasurer as Trustee of the State of North Dakota to any lands as provided in Section 1 hereof, all tax certificates or other tax liens held by the county thereon shall bear interest at the rate of seven per cent (7%) per annum until redeemed or paid.

§ 3. From and after the date of the foreclosure sale of any lands under mortgages held by the State Treasurer as Trustee of the State of North Dakota under the provisions of Chapter 154 of the Session Laws of North Dakota for 1919, and Chapter 292 of the Session Laws of North Dakota for 1923, and acts amendatory thereof, no tax certificate or tax lien held by the county on any of said lands shall be assigned, or in any manner transferred to any person, firm or corporation for any purpose whatever during the time such foreclosure sale remains unredeemed, and any purported assignment or transfer of any such tax certificate or other tax liens made in violation hereof, shall be null and void.

Approved March 10, 1931.

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## CHAPTER 291

(H. B. No. 160—Jardine and McDowall.)

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### TAXATION EXPRESS, SLEEPING CAR, TELEGRAPH, TELEPHONE, POWER AND GAS COMPANIES

**An Act** to provide for the assessment, equalization and taxation of operative property of express, sleeping car, telegraph, telephone, power and gas companies, defining the same, providing for obtaining information relative to such property, outlining duties of the Tax Commissioner, State Board of Equalization, County Auditors and County Treasurers and repealing Sections 2097, 2114, 2145, 2146, 2247, 2249, 2250 and 2251 of the Compiled Laws of 1913, and Sections 2144 and 2248 of the Supplement to the Compiled Laws of 1913, and all acts and parts of acts in conflict with the provisions of this act.

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

§ 1. DEFINITIONS.] For the purposes of this act, the following provisions and definitions are made:

1. This act shall be known and may be cited as the Public Utility Tax Act of 1931.

2. "Company" defined. The term company means and includes any individual, firm, copartnership, business trust, corporation, joint stock company, or association.

3. The term "express company" means a company conveying for hire to, from, or in this state money or property by express on any railroad or boat line, but shall not include railroad companies, steamship companies or bus or motor truck companies.

4. The term "sleeping car company" means a company owning any cars known as dining, buffet, chair, parlor, palace or sleeping cars which are used upon railroads within this state, unless the ownership of such cars be identical with that of the lines of the railroad on which they are operated.

5. The term "telephone company" means a company owning or operating under lease or otherwise, any property in this state used in the business of conveying messages by use of the telephone or any similar instrument or device.

6. The term "telegraph company" means a company owning or operating any telegraph or cable line in this state with appliances for the transmission of messages and engaged in the business of furnishing telegraph service for compensation as owner, lessee or otherwise.

7. The term "power company" means a company owning or holding under lease, or otherwise, any property in this state and operating the same for the purpose of furnishing electric light, electric power or steam heat, or distributing the same for public use.

8. The term "gas company" means a company owning, holding or operating under lease, or otherwise, any property in this state for the purpose of furnishing gas or distributing the same for public use by means of pipe lines.

9. Public Utilities Not Enumerated—Exceptions. The provisions of this act shall be applicable to and shall govern the assessment of the property of any other company used directly or indirectly in the carrying or conveying of persons, property or messages, except in cases where the said operative property is subject to a lieu tax in place of the general property tax, and except railway and street railway property.

10. Operative Property Defined. The term "operative property" means any and all property reasonably necessary for use by said companies exclusively in the operation and conduct of the particular kinds of business enumerated herein. Any such property held under a contract for the purchase thereof shall be considered for all purposes of taxation as the property of the company so holding the same. Any such property, real or personal, held by any company under a rental lease shall be assessed by the State Board of Equalization in the name of such company if an agreement in writing between the owner thereof and such company is filed with the Tax Commissioner requesting that such leased property be so assessed. Whenever any property of a public utility company required to be assessed by the State Board of Equalization under the provisions of this act, is used partly for operative purposes and partly for other purposes either by the company or by others, all such property shall be assessed by the State Board of Equalization as operative property.

§ 2. PROPERTY JOINTLY OWNED.] When property subject to assessment under the provisions of this act is owned jointly by two or more companies the State Board of Equalization may assess such property to the company having the control, supervision and maintenance thereof, or the Board may assess such property to the owning companies in accordance with the values of their respective interests therein. Every company shall, in its return required under this act, set forth in detail property thus jointly owned so as to show specifically what interest each of such joint owners has in such property. Notice to any company having control, supervision and maintenance of such jointly owned property shall be notice to all companies interested in such property.

§ 3. ANNUAL ASSESSMENT.] It shall be the duty of the State Board of Equalization annually to assess the franchises and all operative property of express, sleeping car, telephone, telegraph, power and gas companies and the property of other public utilities specified but not enumerated in Subdivision nine (9) of Section one (1) of this act. Such property shall be assessed with reference to the value thereof on the first day of January of that year.

§ 4. REPORTS OF COMPANIES.] Each company required to be assessed under the provisions of this act shall annually, under oath of the president, or other chief executive officer, and the secretary or treasurer or auditor or superintendent of such company make and file with the Tax Commissioner on or before May first, in such form as the Tax Commissioner may prescribe, a report containing the following information so far as applicable to the company making such report. The information shall be as of January first of the same year unless otherwise specified herein.

- (1) The name of the company.
- (2) The nature of the company, whether a person, association, company or corporation, and under the laws of what state or country organized, the date of original organization, date of reorganization, consolidation or merger, with specific reference to laws authorizing the same.
- (3) The location of its principal office.
- (4) The name of the place where its books, papers and accounts are kept.
- (5) The name and postoffice address of the president, secretary, treasurer, auditor, superintendent, general manager, and all other general officers.
- (6) The name and postoffice address of the chief officer or managing agent of the company in North Dakota and of all other general officers residing in this state.
- (7) The total number of shares of capital stock.



(8) The par value of the shares of the capital stock for the whole system showing separately:

- (a) Amount authorized.
- (b) Amount issued.
- (c) Amount outstanding.
- (d) Dividends paid thereon.

(9) If such capital stock has no market value, the actual value on the dates and for the periods designated by said Tax Commissioner.

(10) The funded debt of the company for the whole system and a detailed statement of all series of bonds, debentures, or other securities, forming a part of the funded debt at par value, with the date of issue, maturity, rate of interest and amount of interest for the preceding year.

(11) The market value of each series of funded debt securities for the whole system on the dates and for the periods designated by said tax commissioner, and if the whole or a part of such funded debt has no market value then the actual value thereof for such dates and periods as the Tax Commissioner may specify.

(12) Such general description of the operative and non-operative real estate of the company in North Dakota as would be sufficient in a conveyance thereof, under a judicial decree, to vest in the grantee all title and interest in and to the said property.

(13) A description of the personal property, including moneys and credits held by the company as a whole system and the part thereof apportioned to the line in North Dakota.

(14) The whole length of the lines of the system operated by the company and the length of the lines in North Dakota, whether operated as owner, lessee or otherwise. The length of the line owned and the length of the line operated for the whole system and in North Dakota shall be separately reported.

(15) The entire gross earnings of the company from operation, expenses of operation, net earnings and income from operation, and the income from other sources, for the whole system, and in North Dakota, for the years or period the Tax Commissioner may request or specify, not exceeding five years.

(16) The location of the property of the company within this state by counties, municipalities and districts in such manner and in such detail as the Tax Commissioner shall prescribe.

(17) Such other facts and information as the Tax Commissioner may require in the form of returns prescribed by him or which the company may deem material upon the question of taxation of its property in this state.

(18) Each telephone, telegraph and power company shall further report as follows:

(a) Number of miles of pole line in each county in the state separated and classified as to location and character, as the Tax Commissioner may require.

(b) Average number of poles per mile in such lines and length and size of same.

(c) Number of miles of wire in such lines and a detailed description of same.

(d) Cost of construction of such lines fully equipped, together with the present value per mile of such lines in each county.

(19) Each gas company shall further report as follows:

(a) Number of miles of pipe line in each county in the state separated and classified as to location and character as may be required by the Tax Commissioner.

(b) A detailed description of same.

(c) Cost of construction of such lines fully equipped, together with the present value per mile of such lines in each county.

§ 5. PENALTY FOR FAILURE TO FURNISH STATEMENT.] In case any company refuses or neglects to make the reports required by this chapter or refuses or neglects to furnish any information requested, the Tax Commissioner shall inform himself as best he may on the facts necessary to be known in order to discharge his duties with respect to the valuation and assessment of the property of such company. In case any company fails to make the report required under this chapter on or before the first day of May of any year, the State Board of Equalization shall add 10 per cent to the assessed value of the property of such company for that year; provided, however, that the Tax Commissioner may upon application grant extensions of time within which such returns shall be filed.

§ 6. PLANTS UNDER CONSTRUCTION.] Any property of the classes mentioned in this chapter owned by a company constructing a new plant or system, even though no part of such new plant or system is in operation, shall be considered operative property and shall be subject to assessment and taxation as provided herein in the case of operative property.

§ 7. VALUATION BY STATE TAX COMMISSIONER.] The Tax Commissioner shall have power, and it shall be his duty on or before July fifteenth of each year, according to his best knowledge and judgment, to ascertain and determine the value of all operative property of any company required to be assessed under the provisions of this act located within the state. This determination of

value shall be made for the guidance of the State Board of Equalization in assessing such property at its annual meeting in August. In making such determination of value, the Tax Commissioner shall be governed by the rules laid down in this act, and by such directions as may be given him by the State Board of Equalization. The Tax Commissioner shall make a tentative assessment of all operative property of any such company located within the state and shall give ten (10) days notice by mail to each company or its representative within North Dakota, of the amount of its tentative assessment, and shall appoint a time and place between the first Tuesday of August and the first day of September, at which each such company shall be entitled to present evidence before the State Board of Equalization relating to the value of the property of such company.

§ 8. GENERAL POWERS OF INVESTIGATION.] In any matter material to the valuation, assessment or taxation of property under this act, the Tax Commissioner may, in his discretion, exercise any and all of the powers conferred upon him by law. Every state, county, city, village, township and other public officer shall make return to the Tax Commissioner in such form as he shall prescribe, of all information he shall call for. The property records, books, accounts and papers of any company required to be assessed under this act, shall upon order of State Board of Equalization be subject to visitation, inspection and examination by the Tax Commissioner or by such person as he may designate for that purpose.

§ 9. VALUATION, HOW DETERMINED.] The operative property of each company assessed under this act, shall be assessed in the following manner:

For the purpose of determining the value of the property of each company, the Tax Commissioner and the State Board of Equalization shall take into consideration the earning power of the property as shown by its gross earnings and net operating income, the market or actual value of its stocks and bonds, the value of its franchises, rights and privileges granted under the laws of this state to do business in this state and such other legally established evidences of value as shall enable the Board to make a just and equitable assessment. In the case of companies which own or operate properties or lines partly within and partly without the state, the Tax Commissioner and the State Board of Equalization shall value only the property within the state. In determining the value of the portion within the state, of an inter-connected or continuous system the Tax Commissioner and the State Board of Equalization may take into consideration the value of the entire system, and of the part within the state, the mileage of the whole system and of the part within this state, the total operating earnings within and without the state, together with such other information, facts and circumstances as will enable them to make a just and correct assessment,

provided that in case of express and sleeping car companies the term "mileage" as used in this section shall mean miles run or wheelage made by the cars of such express or sleeping car companies, and in the case of telephone and telegraph companies the term mileage shall mean miles of wire.

§ 10. ASSESSMENT AND APPORTIONMENT BY STATE BOARD OF EQUALIZATION.]

(a) Assessment. The State Board of Equalization may adopt the tentative assessment of the Tax Commissioner in whole or in part. The valuation and tentative assessment made by the Tax Commissioner shall be considered merely findings of fact of the executive officer of the Board. The State Board of Equalization shall review such valuation and tentative assessment at the time of its annual meeting in August of each year and shall make a final assessment of such property. It may increase or lower the entire assessment or any assessment contained therein, or any item contained within the assessment of any company. Before the State Board of Equalization may make an increase in the assessed valuation of the property of any of said companies over the valuation contained in the tentative assessment, notice shall be given to the company of any such proposed increase and a hearing granted thereon. A ten day written notice shall be given the company in such instance, either addressed to the company or personally served on a duly authorized agent of the company.

(b) Equalization. It shall be the duty of the State Board of Equalization in assessing the property of companies required to be assessed under this act to equalize the assessment of the property of such companies in order to bring about as nearly as possible equality and uniformity in the assessment of all classes of taxable property.

(c) Apportionment of Operative Property Constituting a Single and Continuous Property. Pole lines, pipe lines, and all operative property of any of said companies constituting a single and continuous line or property shall be separately assessed by the State Board of Equalization. The State Board of Equalization shall fix the value per mile of each pole line, pipe line, or other operative property constituting a single and continuous property. The State Board of Equalization shall thereupon make a pro rata distribution per mile of the assessment of the several lines to the counties of the state in which such lines are located.

(d) Allocation of Other Operative Property. All lots and parcels of real estate (not including rights of way) with the buildings, structures and improvements thereon, telephone exchange buildings, dams and power houses, substations, shops and other buildings, telephone exchange systems, electric power, electric light, gas or steam distribution systems, and other personal property not a pari

of any single and continuous property, shall be separately assessed and the assessment shall be allocated to the taxing district in which said property is located. The assessment by the State Board of Equalization covering such property shall give a legal description of the real estate and a general description of other property sufficient for identification. The assessment by the State Board of Equalization of such operative property shall cover the aggregate valuation of such property of any company in any municipality or taxing district of the state as a unit, and need not be made in detail.

§ 11. CERTIFICATION OF ASSESSMENT.] The State Tax Commissioner shall certify to the county auditor of each county in which the company assessed owns property: (a) The total assessed valuation of the company's property as to each assessment district of all property not constituting a single and continuous line, and (b) as to all such property constituting a single and continuous line, shall certify the number of miles of line, valuation per mile and the total valuation of such continuous property or lines within the county.

§ 12. DUTIES OF COUNTY AUDITOR.] It shall be the duty of the county auditor, after receiving such statement from the Tax Commissioner to enter such valuations in the assessment record of the several taxing districts of the county into or through which such lines extend or in which such property is located. Taxes shall be extended upon such percentage of full values as is required by law and at the same rate and in the same manner as taxes upon tangible personal property within his county.

§ 13. PRESUMPTION OF REGULARITY.] The proceedings of the State Board of Equalization shall be presumed to be regular and the determination of the Board shall not be impaired, vitiated or set aside upon any grounds not affecting the substantial justice of the assessment. The provisions of this act prescribing a date or period at or within which an act shall be performed, or determination shall be made by the Tax Commissioner or by the Board, shall be deemed directory only and no failure to perform any such act or make such determination at or within the time prescribed therefor shall affect the validity of such act or any determination made by the Board, unless it shall appear that substantial injustice has resulted therefrom.

§ 14. REPORTS TO COUNTY AUDITORS.] On or before the first day of May of each year each company required to be assessed under the provisions of this act shall file with the county auditor of each county within which any part of its operative property is located, a report giving a general description of all its property located within the county with operative and non-operative property listed separately. Such report shall give the length of the line or lines within the county and the length in each taxing district of

each line constituting part of a single and continuous line or property. The company shall also file with the county auditor a map of all of its lines within the county showing clearly the length of its lines within each taxing district as of January 1st of that year and shall file revised maps in subsequent years if changes have been made in its operative property. To facilitate the making of such maps the county auditor shall annually on or before the first day of April mail to the company an accurate map of the county showing the boundaries of each assessment district and school district.

§ 15. ENFORCEMENT OF COLLECTION.] The property of companies assessed under the provisions of this act, shall for the purpose of assessment and taxation and the collection thereof, be considered as personal property. The taxes assessed under the provisions of this act shall be a perpetual paramount lien upon all the franchises and property, both real and personal, of every kind and nature belonging to the companies assessed from and after the date upon which such assessment is made, and no sale or transfer of such property, or of any part thereof shall divest, or in any way affect, the lien for such taxes upon such property. No company having been assessed and taxed under the provisions of this act shall be entitled to have a transfer of any of its said property, whether by deed, bill of sale or otherwise, entered, filed or recorded upon the records of the register of deeds, county treasurer or county auditor unless all taxes then due against the said property shall first be paid and satisfied. All laws not in conflict with the provisions of this act relating to the enforcement of the payment of delinquent personal property taxes shall be applicable to all taxes levied under the provisions of this act. When any taxes levied under the provisions of this act shall become delinquent, the county treasurer charged with the duty of collecting such delinquent taxes shall proceed to collect same in the manner now provided by law for the collection of delinquent personal property taxes. Where collection is made by seizure and sale, the sale shall be at public auction held at the county court house.

§ 16. Whenever the Legislative Assembly shall provide by law for the payment of a per centum of gross earnings of any company which is subject to assessment under the provisions of this act, to be paid in lieu of taxes on the property and franchise of such company, the provisions of this act shall no longer be applicable to such company.

§ 17. REPEAL.] Sections 2097, 2114, 2145, 2146, 2247, 2249, 2250 and 2251 of the Compiled Laws of 1913, and Sections 2144 and 2248 of the Supplement to the Compiled Laws of 1913, and all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 9, 1931.

CHAPTER 292  
(S. B. No. 95—Fowler.)

TAXATION GROSS RECEIPTS EXPRESS COMPANIES

An Act imposing a tax on the gross receipts of express companies for the privilege of operating an express business in North Dakota, providing for the making of reports to the State Tax Commissioner and fixing penalty for failure or neglect to report; providing that such tax shall be a lieu tax, and repealing all acts and parts of acts in conflict herewith and declaring an emergency.

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

§ 1. ANNUAL TAX.] For the privilege of exercising its franchise in this state, every domestic express company, and for the privilege of doing business in this state, every foreign express company, shall annually pay a tax to the state upon its gross receipts, as defined in Section 2 of this act, from the operation of its business over its lines or routes within this state of three-fourths of one ( $\frac{3}{4}$  of 1%) per cent of its total gross receipts within this state.

§ 2. DEFINITIONS.] Any corporation, association, partnership or person engaged in the business of conveying to, or from, or through this state, or any part thereof, money, packages, gold, silver plate or other property by express by means of passenger or mail trains, stage or motor bus lines shall be deemed and held to be an express company; provided, however, that railroad, steamship, bus and motor truck transportation companies shall not be deemed express companies. The word "company" as used in this act shall include any corporation, association, partnership or person engaged in the express business. The term "gross receipts" shall be understood to mean the total amount charged for transportation less uncollected revenue from transportation and before payment to any railroad company, or other company, of any amount for express privileges. When such express companies operate partly within and partly without this state, the gross receipts within this state shall be deemed to be all receipts from business beginning and ending within this state and all receipts earned in North Dakota on business passing through, into, or out of this state, provided that unless otherwise clearly shown, such last mentioned receipts shall be deemed to be that proportion of the total receipts from such business which the mileage within this state over which such business is done bears to the entire mileage over which such business is done.

§ 3. REPORTS OF EXPRESS COMPANIES.] Each express company shall on or before the first day of March in each year make and file with the Tax Commissioner in such form and upon such blanks as he may prescribe, a sworn statement of its gross receipts in the State of North Dakota during the preceding calendar year together with such other information as he may require. The State

Tax Commissioner may, in his discretion, grant extensions of time within which reports of express companies required under this act shall be filed.

§ 4. PENALTY.] If the return to be made by any express company under the provisions of Section 3 of this act is not made within twenty days after the time therein fixed, unless an extension of time is granted by the Tax Commissioner the company failing or refusing to make such return shall be liable to a penalty of fifty dollars (\$50.00) for each and every day thereafter during which said report shall be delayed. Such a penalty shall be assessed against the express company by the State Board of Equalization and shall be certified and collected in the manner herein provided for the assessment and collection of the tax.

§ 5. ASSESSMENT AND COLLECTION.] The total tax due from each express company shall be computed and determined by the Tax Commissioner from the annual return herein required or from any other information. The State Board of Equalization shall meet at the office of the State Tax Commissioner on or before the fourth Monday in April and assess and levy the tax as herein provided. The tax so determined and assessed shall be certified by the State Tax Commissioner to the State Treasurer for collection on or before the first day of May in each year. The tax shall be payable on the first day of June next following and if not paid shall become delinquent on the first day of July and thereupon a penalty of five per cent (5%) shall attach and be charged and interest at the rate of one per cent (1%) per month shall be charged after such taxes become delinquent.

§ 6. ARBITRARY ASSESSMENT.] Should any express company fail to make the report required by Section 3 on or before the first day of April in any year, the State Tax Commissioner shall, at such time as he may elect, and upon the best and most reliable information that can be procured, determine the gross receipts of such company within this state.

It shall be the duty of the Tax Commissioner to satisfy himself of the accuracy of the reports made by each express company, as provided in this act, and to correct any error or inaccuracy which he may discover therein. The records and books of account of express companies shall be subject to inspection and examination by the State Tax Commissioner or his duly authorized deputies or representatives.

In case a correction is made in the report of any company, or in case any express company fails to report, and the Tax Commissioner determines its gross receipts from the best and most reliable information that he can procure, the said Tax Commissioner shall certify his computations, and the data upon which they were based, to the State Board of Equalization, and he shall at the same time



advise such express company in writing of its tax so computed. Any express company feeling aggrieved at the amount of its tax so computed may file a petition for review with the Tax Commissioner as Secretary of the State Board of Equalization, stating its contention with regard thereto, and the Board shall forthwith set a date for hearing of which at least ten days notice to the company shall be given. At such hearing, the petitioning company and all parties interested shall be heard. After such hearing the Board of Equalization shall make a written order deciding the matter in disputes and shall determine the tax and the company may appeal from such order of the Board to the District Court in and for Burleigh County by serving notice of appeal upon the Tax Commissioner and filing the same with the Clerk of the Court, together with an undertaking in the sum of five hundred (\$500) dollars with such sureties as may be approved by the Clerk of District Court, conditioned that the appellant will prosecute such appeal without delay and pay all costs adjudged against the appellant in District Court. Such undertaking shall be executed to the state and may be sued on in the name of the state. Such appeal shall be decided upon the record made before the Board which the Tax Commissioner shall certify to the Clerk of the District Court as soon as such notice of appeal has been filed. Such appeal may be heard by the Court without a jury and either party may appeal from a decision of such Court to the Supreme Court in the manner provided for appeals in civil cases.

§ 7. EXEMPTIONS FROM OTHER TAXATION.] The tax imposed by this act upon express companies for the privilege of doing business in this state shall be in lieu of all other taxes on property used exclusively in the operation of such business within this state, except that the real estate of such companies shall be subject to special assessments for local improvements. The tax imposed by this act shall also be in lieu of any franchise tax, income tax or excise tax except motor vehicle license and fuel taxes heretofore or hereafter imposed by law.

§ 8. All moneys collected under the provisions of this act shall be paid into the general fund of the state to be used in defraying the general expenses of the state government.

§ 9. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

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

Approved March 10, 1931.

## CHAPTER 293

(S. B. No. 184—Bonzer and Magnuson.)

## TAXATION MUTUAL OR COOPERATIVE TELEPHONE COMPANIES

An Act imposing a tax upon the property of mutual or cooperative telephone companies operating in this state; providing for the making of reports to the State Tax Commissioner and fixing the penalty for failure or neglect to report; providing for apportioning such tax among the state, counties, cities, villages and other taxing districts; providing that such tax shall be a lieu tax and repealing all acts and parts of acts in conflict herewith and declaring an emergency.

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

§ 1. DEFINITION.] For the purpose of this act the following definitions shall govern:

(a) The term "telephone company" as used in this act shall embrace mutual associations and other cooperative organizations engaged in the business of furnishing communication by telephone, the income of which chiefly consists of assessments, dues and fees collected from members for the purpose of meeting expenses, and which is not operated on a profit sharing basis.

(b) "Telephone operating receipts" shall consist of all revenue received for telephone service performed, including assessments collected from members of mutual associations or organizations in place of rentals.

§ 2. REPORTS OF TELEPHONE COMPANIES.] Each telephone company required to be assessed under the provisions of this act shall annually under oath of the president, secretary or other official of such company make and file with the State Tax Commissioner on or before May 1st on such form as the State Tax Commissioner may prescribe, a report containing a sworn statement of its telephone operating receipts in this state during the preceding calendar year and number of telephone instruments in service on December 31st preceding, together with such other information as the State Tax Commissioner may require.

§ 3. COMPUTATION OF TAXES BY STATE TAX COMMISSIONER.] On or before August 1st of each year the State Tax Commissioner shall compute the total tax to be assessed against such telephone company in this state, as follows:

The tax shall be fifty cents (50¢) for each telephone instrument used by such company in furnishing telephone service on December 31st preceding. This computation shall include telephone instruments owned by subscribers or members of such telephone company.

§ 4. ASSESSMENT BY STATE BOARD OF EQUALIZATION.] On or before the first Monday of September in each year, the State Board of Equalization shall, after considering the reports and computations of the State Tax Commissioner, make an assessment of the tax to be collected from each telephone company subject to the provisions of this act. The Board shall not increase the tax on any company beyond the sum computed by the State Tax Commissioner, except upon ten (10) days written notice to such company of the amount of proposed increase. Any company so notified may demand a hearing, which the Board shall grant forthwith.

§ 5. CERTIFICATION OF TAX.] The State Tax Commissioner shall certify to the county auditor of each county in which the company assessed owns property, the number of telephone instruments within the county belonging to the said company and the amount of tax to be collected from said company, as assessed by the State Board of Equalization.

§ 6. DUTIES OF COUNTY AUDITOR.] It shall be the duty of the county auditor after receiving such statement from the Tax Commissioner to certify such taxes to the county treasurer for collection at the same time real and personal property taxes are required to be so certified; such certification shall give the amount applicable to each taxing district in which the company owns property. The county auditor shall make such determination on the basis of the number of telephone instruments of the company in each assessment district.

§ 7. REPORTS TO COUNTY AUDITOR.] On or before the first day of May of each year, each telephone company subject to the provisions of this act, shall file with the county auditor in which any part of its operative property is located, a report giving the number of telephone instruments used by such reporting company in its telephone service in each assessment district as of December 31st preceding.

§ 8. ADMINISTRATIVE LAWS APPLICABLE.] The provisions of law applicable to the assessment, levy and collection of property taxes on the property of telephone companies other than those coming under the provisions of this act are hereby extended to and made applicable to those companies under the provisions of this act, except as otherwise herein provided.

§ 9. DISPOSITION OF REVENUE.] The amount collected under the provisions of this act shall be divided among the various funds upon the same pro rata basis as other taxes collected in such assessment districts are apportioned.

§ 10. PENALTY FOR FAILURE TO FURNISH STATEMENT.] In case any company refuses or neglects to make the reports required by this act, or refuses or neglects to furnish any information requested, the Tax Commissioner shall inform himself as best he may

on the facts necessary to be known in order to discharge his duties with respect to the taxation of the property of such company, and the tax shall be imposed upon the basis of such information; and the State Board of Equalization shall add a penalty not to exceed twenty-five cents (25¢) per telephone operated by such company for failure to make the required report, which shall be collected as a part of the tax.

§ 11. EXEMPTION FROM OTHER TAXATION.] The taxes imposed by this act shall be in lieu of any and all state, county, municipal, road or school taxes, licenses, or fees upon such telephone companies and their franchises, and upon all property of such companies, tangible and intangible, used or useful in telephone operations.

§ 12. CONFLICTING ACTS REPEALED.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 13. EMERGENCY.] This act is hereby declared to be an emergency and will take effect from and after its passage and approval.

Approved March 12, 1931.

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## CHAPTER 294

(S. B. No. 132—Committee on Banks and Banking.)

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### TAXATION STOCK OF BANKS AND TRUST COMPANIES

An Act amending and re-enacting Subdivision 3 of Section 2115, Supplement to the Compiled Laws of 1913, relating to the taxation of stock of banks and trust companies.

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

§ 1. AMENDMENT.] That Subdivision 3 of Section 2115, Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2115. (3) DEDUCTION OF REAL ESTATE AND PERSONAL PROPERTY TO ARRIVE AT TAXABLE VALUE OF SHARES OF STOCK.] Real estate owned by any bank or trust company shall be assessed and taxed as other real estate is under this article. Personal property of any bank or trust company, except furniture, fixtures and equipment, shall be returned in the name of the bank or trust company, and shall be assessed and taxed as other personal property is under this article. In determining the taxable value of the shares of stock of such corporation, the Tax Commissioner shall deduct the net amount of such corporation's investment in real estate and the net amount of its investment in taxed personal property from the aggregate amount of the capital stock, surplus and undivided profits, and the remainder shall be taken as the basis for valuation of such shares of stock in the hands of the stockholders subject to

the provisions of law requiring all property to be assessed at its true and full value, or such other provision of law as may be enacted at this or subsequent sessions of the Legislature classifying such property for assessment purposes.

In determining the net amount of such corporation's investment in real estate, no real estate which has been charged off nor any real estate not carried upon the books of such corporation as an asset shall be deductible.

To determine the amount which shall be considered as being invested in real estate, the Tax Commissioner shall also deduct from the total of such investment the amount of investments in real estate where the bank or trust company has sold the real estate under contract whereby the purchaser agrees to pay the taxes assessed against such property.

Approved March 11, 1931.

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## CHAPTER 295

(H. B. No. 152—Johnson, Hausman and Northridge.)

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### TAX EXEMPTION GRAIN AND SEED

**An Act to exempt from taxation grain and seed kept or stored on farm lands and upon premises used for agricultural purposes; requiring the taxation of grain and seed stored in public warehouses or upon other than farm lands or premises used for agricultural purposes; providing for the taxation of grain and seed kept for sale by persons engaged in the business of buying seed and grain for seed purposes; repealing conflicting statutory provisions and declaring an emergency.**

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

§ 1. All flax, wheat, oats, barley, corn, speltz, and other grains and seed of any nature, kind or variety kept or stored upon any farm lands or upon any premises used for agricultural purposes, shall be and the same are hereby exempted from taxation; provided, however, that grain and seed stored in any public warehouse or upon premises not used for agricultural purposes shall not be construed to be exempt from taxation but such grain or seed shall be taxed as provided in Sections 2256 and 2257 of the Compiled Laws of 1913.

§ 2. All grain or seed of any nature, kind or variety, held or kept for sale by any person, firm or corporation engaged in the business of buying and selling seed and grain for seed purposes shall be assessed and taxed as is other personal property.

§ 3. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

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

Approved March 7, 1931.

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CHAPTER 296

(S. B. No. 126—Renauld.)

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**TAX EXEMPTION INDIAN WARDS OF U. S. GOVERNMENT**

An Act to amend and re-enact Subdivision 4 of Section 2078 of the Supplement to the Compiled Laws of 1913 relating to exemption from taxation of property of Indians who are wards of the United States Government, and declaring an emergency.

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

§ 1. That Subdivision 4 of Section 2078 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2078, Subdivision 4. Property of Indians where the title of such property is inalienable without the consent of the United States Secretary of the Interior, providing, however, that the provisions of this section shall not apply to any land that was not originally an Indian allotment or Indian homestead.

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

Approved March 11, 1931.

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CHAPTER 297

(S. B. No. 91—Cain and Erickson.)

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**TAX LEVY LIMITATIONS CITIES, VILLAGES AND SCHOOL DISTRICTS**

An Act to amend and re-enact Section 5 and Section 7 of Chapter 235 of the Session Laws of 1929, relating to the limitation of tax levies of cities, villages, and school districts, and repealing all acts and parts of acts in conflict herewith.

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

§ 1. AMENDMENT.] That Section 5 of Chapter 235 of the Session Laws of North Dakota for the year 1929 be and the same is hereby amended and re-enacted to read as follows:

§ 5. CITY AND VILLAGE TAX LEVIES.] City and village taxes shall be levied by the city council or the village board of trustees, as the case may be, at the annual budget meeting of the city or village on the fourth Wednesday of July of each year or within ten days

thereafter. In levying city and village taxes the governing body of the municipality shall be limited by the amount necessary to raise to meet appropriations included in its annual budget of the current fiscal year, and the sum necessary to be provided as a reserve fund (as hereinafter provided in Section 10) together with a tax sufficient in amount to pay the interest on the bonded debt of the municipality and to provide a sinking fund to pay and discharge the principal thereof at maturity.

(a) The aggregate amount levied for general village purposes shall not exceed such amount as will be produced by a levy of ten mills on the net taxable assessed valuation of property in the village.

(b) The aggregate amount levied for general city purposes shall not exceed such amount as will be produced by a levy of fourteen mills on the net taxable assessed valuation of property in the city.

(c) The foregoing limitations in this section shall not apply to:

(1) Taxes levied pursuant to the provisions of Section 3716 of the Supplement to the Compiled Laws of 1913, (or acts amendatory thereof) for the purpose of paying a deficiency in connection with a special improvement project.

(2) Nor to taxes levied pursuant to the provisions of Section 3723 of the Compiled Laws of 1913 for the purpose of paying a proportion of the cost of a special improvement project by general taxation;

(3) Nor to levies to pay interest on bonded debt and levies to pay and discharge the principal thereof at maturity.

(4) Nor to taxes levied for the purpose of paying any final judgment, or judgments, obtained against any city or village; provided, however, that the aggregate amount levied for the purpose of paying any final judgment, or judgments, obtained against any city or village shall not exceed such amount as will be produced by a levy of five (5) mills on the net taxable assessed valuation of property therein; and provided, further, that this section shall not be deemed or construed to modify, qualify or limit the authority of any city or village to issue bonds under the provisions of Subdivision (Subparagraph) seven (7) of Section 4 of Chapter 196 of the Session Laws of 1927 in case the governing body of any such city or village shall not deem it advisable to pay such judgment, or judgments, out of current revenues.

With the exception noted herein, the limitations prescribed in Paragraphs (a) and (b) of this section shall apply to all taxes which any village or city is authorized to levy.

§ 2. AMENDMENT.] That Section 7 of Chapter 235 of the Session Laws of North Dakota for the year 1929 is hereby amended and re-enacted to read as follows:

§ 7. SCHOOL TAXES.] School district taxes shall be levied by the governing body of each school district on or before the last day of July of each year. Taxes for school district purposes shall be based upon an itemized budget statement which statement shall show the complete expenditure program of the district for the current fiscal year and the sources of the revenue from which it is to be financed. The board of education or board of directors of each school district, whether common, independent or special, in levying taxes shall be limited by the amount necessary to raise for the purpose of meeting the appropriations included in the school budget of the current fiscal year, and the sum necessary to be provided as a reserve fund (as hereinafter provided in Section 10) together with a tax sufficient in amount to pay the interest on the bonded debt of the district and provide a sinking fund to pay and discharge the principal thereof at maturity.

(1) The aggregate amount levied by any school district, whether common, independent or special, shall not exceed such amount as will be produced by a levy of fourteen (14) mills on the dollar of the net assessed valuation of the district; provided, however, that any school district may levy not to exceed eighteen mills on the dollar of the net assessed valuation, if the excess, or such portion thereof as may be necessary, is to be used for the purpose of paying the tuition, as provided by law, of resident pupils who attend high school in another district, except that:

(2) Any school district giving two years of standard high school work may levy taxes not to exceed sixteen (16) mills, and;

(3) Any school district giving four years of standard high school work may levy not to exceed eighteen (18) mills, and;

(4) Any school district maintaining a consolidated school may levy not to exceed sixteen (16) mills on the dollar of its net taxable valuation.

(5) The governing body of any school district may levy taxes annually for a school building fund not in excess of one mill annually and not in excess of the limitations prescribed in this Section and Section 13, when authorized to do so by 60% of electors voting upon the question at a regular or special election. Such fund shall be used exclusively for erecting school buildings. All amounts received from such levy shall be kept in a special fund and such fund shall be known as a school building fund. Such fund may be used in connection with the proceeds of any bond issue made for the same purpose. It shall be illegal to use such fund or any part thereof for any purpose except for the purposes for which the fund was created. Such fund shall be subject to all requirements which now govern the sinking fund of any such school district and shall be retained by or deposited with the custodian of the sinking funds of the district. All payments from such fund shall be upon warrant of



the proper fiscal officer of the district for whose benefit the tax was levied. Whoever uses or authorizes to be used such fund or any part thereof for any purpose except the purposes for which the fund was created shall be liable therefor and upon his official bond. If any unexpended balance of such fund is no longer needed for the purpose for which the fund was created or the project is abandoned, such balance shall be transferred to the general fund of the municipality or to the sinking fund or funds of the municipality as directed by the governing board. No such transfer shall be made until the object of the levy is satisfied or abandoned.

(6) The foregoing limitations shall not apply to levies for the purpose of paying interest on bonded debt nor to levies made to pay and discharge the principal thereof at maturity; nor to taxes levied for the purpose of paying any final judgment, or judgments, obtained against any school district; provided, however, that the aggregate amount levied for the purpose of paying any final judgment, or judgments, obtained against any school district shall not exceed such amount as will be produced by a levy of five (5) mills on the net taxable assessed valuation of property therein, and provided further, that this Section shall not be deemed, or construed, to modify, qualify or limit the authority of any school district to issue bonds under the provisions of subdivision (sub-paragraph) seven (7) of Section 4 of Chapter 196 of the Session Laws of 1927, in case the governing body of any such school district shall not deem it advisable to pay such judgment, or judgments, out of current revenues.

§ 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

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

Approved February 24, 1931.

#### CHAPTER 298

(H. B. No. 171—Traynor.)

#### TAX SALE CERTIFICATES

An Act relating to the issuance of tax sale certificates; the payment of subsequent taxes; the issuance of subsequent tax sale certificates; the redemption of real estate from tax sale and redemption of real estate taxes paid as subsequent; amending and re-enacting Sections 2192 and 2197 of the Supplement to the Compiled Laws of 1913 and repealing all acts and parts of acts in conflict herewith.

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

§ 1. Section 2192 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2192. CERTIFICATE OF SALE. ASSIGNMENTS FILED. SUBSEQUENT PAYMENTS. SUBSEQUENT TAX SALE CERTIFICATES.] (a) The purchasers of any tract of real property sold by the County Auditor for taxes shall be entitled to a certificate describing the land so purchased, stating the sum paid and the time when the purchaser will be entitled to a deed, which certificate shall be signed by the County Auditor in his official capacity and shall be presumptive evidence of the regularity of all prior proceedings. The owner of such tax sale certificate shall be entitled to a tax deed three (3) years from the date of tax sale upon the giving of the statutory notice of expiration of period or redemption.

The County Auditor shall execute to the purchaser a certificate of sale which certificate shall be substantially in the following form:

COUNTY CERTIFICATE OF SALE FOR TAXES

I,.....Auditor for the County of..... in the State of North Dakota, do hereby certify that the following described real estate in said County and State, to-wit: (describing the same), was on the.....day of.....A. D. 19....., sold by me in the manner provided by law for the delinquent taxes of the year.....thereon, amounting to.....dollars, including interest and penalty thereon, and the costs allowed by law to.....for the sum of.....dollars, he being the bidder who agreed to accept the lowest rate of interest thereon from the date of sale on the amount of such taxes, penalties and costs as paid by him, and that said rate of interest which said purchaser so agreed to accept was.....per cent per annum.

And I further certify that unless redemption is made of said real estate in the manner provided by law the said..... or assignee will be entitled to a deed therefor on and after the..... day of.....A. D.....on the surrender of this certificate.

In Witness Whereof, I have hereunto set my hand and seal this .....day of.....A. D. 19.....  
 (SEAL) .....

Auditor

(b) Such certificate shall be assignable, and the assignee shall acquire all of the rights of the original purchaser of the real property described therein. He may present the assigned certificate to the County Auditor for entry and such Auditor shall enter on the record of such sale the fact that the certificate has been assigned, entering the name and address of the assignee and the date when such assignment was presented for such entry.

(c) The owner of a tax sale certificate may pay the taxes upon the property described in such tax sale certificate for any subsequent year at any time after the second installment of taxes becomes

delinquent. Upon payment of any such taxes with accrued interest and penalty thereon into the County Treasury, the County Auditor shall issue to the person entitled thereto a certificate which shall be known as a "subsequent tax sale certificate". Such subsequent tax sale certificate shall describe the premises upon which taxes were paid as subsequent; the number of the original tax sale certificate, that the person to whom the subsequent tax sale certificate is issued has the right to pay taxes as subsequent, either by virtue of being the holder and owner of an unredeemed tax sale certificate or an unredeemed subsequent tax sale certificate. The subsequent tax sale certificate shall also recite that by virtue of the payment of such subsequent taxes the person paying the same will be entitled to a tax deed of said property at the expiration of three (3) years from the date of tax sale at which said property would have been sold for taxes, in case said taxes had not been paid as subsequent, unless the same is redeemed by the payment of the amount set forth in such subsequent tax sale certificate together with interest thereon at the rate of three-fourths (3-4) of one (1) per cent per month from the date of such certificate.

A subsequent tax sale certificate shall have the effect of conveying all the rights, interest, privilege and title which would be conveyed by an original certificate of tax sale issued pursuant to the regular Auditor's tax sale. The owner of the subsequent tax sale certificate shall be entitled to a deed three (3) years from the date of tax sale at which the real estate described in such certificate would have been sold for taxes in case said taxes had not been paid as subsequent upon giving of the statutory notice of expiration of period of redemption. The procedure prescribed by Section 2223 of the Supplement to the Compiled Law of 1913 shall be followed, and in case redemption is not made, tax deed shall be issued in the same manner and with the same force and effect as though issued under an original tax sale certificate issued pursuant to a regularly conducted tax sale.

At all tax sales made as provided herein, except in case of purchase by the County, the County Treasurer shall make out a tax receipt in duplicate and shall write thereon the words "Sold for Taxes". The same record of subsequent tax sale certificates shall be kept by the County Auditor as is kept for tax sale certificates.

The owner of the subsequent tax sale certificate may pay the taxes for any subsequent year at any time after they become delinquent and upon such payment the County Auditor shall execute to him a subsequent tax sale certificate in form similar to the form set forth with only such change in the wording as is appropriate to state the fact that such payment was made as the owner of a subsequent tax sale certificate and not the owner of a tax sale certificate. Such subsequent tax sale certificate may be substantially in the following form:

## SUBSEQUENT TAX SALE CERTIFICATE

.....County, North Dakota.  
 I,.....County Auditor of.....County in  
 the State of North Dakota do hereby certify that at the annual tax  
 sale of real estate held on the.....day of December, 19.....the fol-  
 lowing described real estate was sold for the taxes of the year.....  
 to.....of.....for the aggregate sum of  
 ..... (\$.....) Dollars, and there was is-  
 sued to such purchaser tax sale certificate No.....; and that  
 thereafter, the owner of said tax sale certificate paid subsequent  
 taxes upon said real estate for the year.....which payment  
 was made on.....and it is hereby certified that there  
 is due him on account of subsequent taxes for said year, the sum  
 of..... (\$.....) Dollars, together with in-  
 terest at nine per cent (9%) per annum from.....,  
 and that unless redemption be made from this subsequent tax sale  
 certificate within three (3) years from December....., 19.....,  
 he will be entitled after due notice given, to a tax deed conveying to  
 him the said real estate.

Given under my hand and the Seal of the County Auditor of  
 ..... County, North Dakota, this.....day of.....  
 19.....

.....  
 County Auditor of.....County

### § 2. ISSUANCE OF SUBSEQUENT TAX SALE CERTIFICATE TO THE COUNTY:

(a) Subsequent tax sale certificates shall be issued to the  
 County annually as to all real property upon which the County is  
 holding the original certificate of tax sale or any subsequent tax  
 sale certificate. Such certificates shall be issued as of the date of  
 the annual tax sale. Subsequent tax sale certificates issued to the  
 County shall have the effect to convey all the rights, interest, priv-  
 ileges and title conveyed by an original certificate of tax sale issued  
 pursuant to the regular annual Auditor's tax sale. The County  
 shall be entitled to a tax deed three (3) years from the date of tax  
 sale at which the real estate described in such certificate would have  
 been sold for such taxes, in case said taxes had not been paid as  
 subsequent, upon giving the statutory notice of expiration of period  
 of redemption. In case redemption is not made tax deed shall be is-  
 sued in the same manner and with the same force and effect as  
 though issued under an original tax sale certificate, pursuant to a  
 regularly conducted tax sale.

(b) Subsequent tax sale certificates issued to the County shall  
 conform as nearly as may be to the form above set forth.

§ 3. That Section 2197 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2197. REDEMPTION OF REAL ESTATE.] Any original tax sale certificate may be redeemed at any time within three (3) years from the date of sale by any person or corporation having an interest in the real estate sold for taxes and described in such certificate, who shall pay into the treasury of the County for the credit of the person entitled thereto, the amount paid by the purchaser at the time of sale together with a penalty of three (3) per cent and interest thereon at the rate specified in such certificate of sale. Any subsequent tax sale certificate may be redeemed at any time within three (3) years from the date of tax sale at which the real estate described therein would have been sold for such taxes, in case said taxes had not been paid as subsequent. Redemption may be made by any person or corporation having an interest in such real estate by paying the amount of such subsequent certificate together with interest at the rate of three-fourths (3-4) of one (1) per cent per month from the date thereof; provided, however, that subsequent tax sale certificates must be redeemed in the order in which they were issued and provided, further, that any tax sale certificate, original or subsequent, may be redeemed by any person or corporation having an interest in the land described in such certificate at any time prior to the issuance of a tax deed. In case any piece or parcel of land has been struck off to the County at a tax sale any person or corporation having an interest in the real estate thus struck off to the County shall have the same right of redemption from the County, and upon the same terms, as from a purchaser at a tax sale or from the holder of a subsequent tax sale certificate. The County Auditor shall certify to the amount due upon redemption, and on payment of the same to the County Treasurer, the said Treasurer shall make duplicate receipts for the certified amount, describing the property redeemed, one of which receipts shall be filed with the County Auditor, which shall have the effect of annulling the sale. If the amount so paid for the purpose of redemption be less than required by law it shall not invalidate such redemption but the County Auditor shall be liable for the deficiency to the person entitled thereto, and shall personally have the right of action against the person redeeming to recover from him the amount of such deficiency.

Minors, insane persons or persons in captivity, or in any country with which the United States is at war, having an estate in, or liens on lands sold for taxes, may redeem the same within three (3) years after such disability ceases; but in such cases the right to redeem must be established in a suit for that purpose, brought against the party holding the title under sale. Any person who has or claims an interest in, or lien upon, any undivided estate in any piece or parcel of land sold, may redeem such undivided estate by paying

to the County Treasurer a proportionate part of the amount required to redeem the whole and in such case the certificate of redemption shall express the estate or interest redeemed.

Approved March 9, 1931.

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## TOURIST CAMPS

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### CHAPTER 299

(H. B. No. 227—Baseflug.)

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#### REGULATION TOURIST CAMPS

**An Act to license and regulate tourist camps; to give to the owners or keepers thereof liens in certain cases and prescribe the manner in which the same may be enforced; empowering the State Food Commissioner to issue licenses to operate such camps, and to revoke the same; authorizing the State Food Commissioner to make rules and regulations relating to the operation of such camps, and prescribing penalties for violation of this act or of the rules and regulations of the Food Commissioner.**

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

§ 1. DEFINITION.] The words "Tourist Camp" as used in this act shall be construed to mean any plot of land used, maintained or held out to the public as a place for use for camping purposes by transient guests, whether equipped with tents, tent-houses, huts or cottages, or not so equipped, and by whatever name the same may be called, and whether any fee is charged for the use thereof or not.

§ 2. LICENSE, PENALTY FOR OPERATION WITHOUT LICENSE.] No person, firm or corporation, municipal or private, shall establish or maintain any tourist camp in this State without first obtaining a license therefor from the State Food Commissioner, and the State Food Commissioner shall have the power to revoke any license issued upon the failure of the holder thereof to comply with the provisions of this Act, or any other law, or any of the rules and regulations made and promulgated by the State Food Commissioner under authority of this Act. Any person, the members of any firm, and the officers of any corporation, private or municipal, who shall maintain or operate a tourist camp without first obtaining such license, or who shall operate the same after the revocation of such license, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding three hundred dollars, or imprisonment in the county jail not exceeding ninety days, or both such fine and imprisonment.

§ 3. APPLICATION FOR LICENSE.] Application for such license shall be made in writing to the State Food Commissioner.

The application shall state the location of the camp, type of camp, the approximate number of guests for which facilities are to be furnished, the probable duration of use, the proposed water supply for such camp, the proposed method of sewage and garbage disposal, and such other information as may be required by the State Food Commissioner. Forms for such applications shall be prepared by the State Food Commissioner, and distributed upon request.

§ 4. INSPECTION. LICENSE. FEES.] As soon as possible after the receipt of such application, the State Food Commissioner shall cause an inspection of said premises to be made, and if such Commissioner is satisfied, from such application and inspection, that the existing or proposed tourist camp will not be a source of danger to the health of the guests of such camp or the general public, he shall notify the applicant of his approval of such camp and of the fees for a license therefor. Fees shall be charged and collected upon the basis of the number of sleeping rooms available for use by guests for hire, whether in tents, tent-houses, huts, cottages, or in a single building or several buildings. For tourist camp grounds offering no sleeping rooms, or having not more than five sleeping rooms, the fee shall be Five (\$5.00) Dollars; for any tourist camp having more than five and less than eleven sleeping rooms, Ten (\$10.00) Dollars; and for any tourist camp having eleven or more sleeping rooms, Twenty (\$20.00) Dollars. A fee of Five (\$5.00) Dollars shall be charged and collected for a license to operate any tourist camp which makes no charge to guests for any of the facilities offered by such tourist camp, provided, however, that no license fee shall be charged for any municipally owned and operated tourist camp. Upon receipt of the required fee, and upon the approval of the application, the State Food Commissioner shall issue a license in writing to the person, firm or corporation named in the application upon a form to be prescribed by the State Food Commissioner. Such license shall be for a term of one year, from January 1 to December 31, and shall be renewable upon the same basis as the same was issued in the first instance. Such licenses shall be transferable only with the consent of the State Food Commissioner, who may, upon application, take up and cancel a license issued for the operation of any tourist camp and issue a new license to the transferee for the balance of the year. The proceeds of all such fees shall be deposited with the State Treasurer by the State Food Commissioner, and credited to the "State Regulatory Fund", and paid out in the same manner as other moneys in such fund.

§ 5. REGULATIONS.] The State Food Commissioner shall have general supervision of the health and sanitary condition of all tourist camps in this State, and shall have the power to make, promulgate and enforce such rules and regulations as may be necessary or desirable for the preservation of the same. The State Food Commissioner and any and all inspectors designated by him, shall have

full and free right of access to the premises of each and every tourist camp, and each and every part thereof, at such times as may be proper and reasonable for the inspection of said premises.

§ 6. GARBAGE DISPOSAL.] Suitable garbage containers of a kind to be approved by the State Food Commissioner shall be provided at a convenient point or points in each tourist camp for the disposal of garbage and refuse, and all garbage and refuse shall be deposited therein. Any person who shall throw or leave garbage or refuse of any kind upon the ground in any such tourist camp shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding Twenty-five (\$25.00) Dollars.

§ 7. SICKNESS IN TOURIST CAMPS. PENALTY FOR FAILURE TO REPORT.] It shall be the duty of every guest of any such tourist camp immediately to report to the person in charge of such camp, or the local or state health authorities every case of sickness in his or her tent, tent-house, hut, cottage or sleeping room. Any person who shall fail to make a report of such sickness as aforesaid shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding Twenty-Five (\$25.00) Dollars.

§ 8. OBTAINING ACCOMMODATIONS BY FRAUD. PENALTY.] Any person or persons who shall obtain quarters or accommodations at any tourist camp with intent to defraud the owner or keeper thereof, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not to exceed Twenty-Five Dollars, or imprisonment in the county jail for not to exceed Thirty Days, or both such fine and imprisonment.

§ 9. INNKEEPERS LIEN.] The owner or keeper of any tourist camp shall have an Innkeeper's lien upon the property of his guest in the same manner, for the same purposes and subject to the same restrictions as are or may be set forth in the law with reference to innkeeper's liens.

§ 10. EJECTION FROM PREMISES.] The owner or keeper of any tourist camp may eject any person from the premises for non-payment of charges or fees for accommodations, for violation of law or disorderly conduct, for violation of any regulations of the State Food Commissioner, or for violation of any rule of the camp which is publicly posted within the camp.

§ 11. SCHEDULE OF FEES TO BE POSTED.] The owner or keeper of any tourist camp shall post a notice at a conspicuous place near the entrance to such camp, in letters of sufficient size to be clearly visible to the occupants of automobiles entering such camp, which notice shall set forth a schedule of the fees charged by such tourist camp for accommodations.

§ 12. POSTING RULES AND REGULATIONS.] The owner or keeper of any tourist camp shall post in one or more conspicuous



places in such camp a notice of the provisions of this Act with reference to sanitation and health and of any and all rules and regulations with reference thereto promulgated by the State Food Commissioner. At least two copies of such notice shall be furnished to each tourist camp by the State Food Commissioner.

§ 13. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 11, 1931.

## TOWNSHIPS

### CHAPTER 300

(S. B. No. 23—Ettestad.)

#### CONSTRUCTION CROSSINGS OVER DITCHES, DRAINS AND ROADS

An Act providing for the construction of crossings by townships over ditches, drains, and roads.

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

§ 1. Whenever a township constructs ditches or drains, in connection with road building, and such ditch, drain, or road interferes with the ingress or egress of the owner or owners of the adjoining land, then, and in that event, the township shall install crossings at such point or points as will afford the owner or owners of the premises suitable ingress thereto or egress therefrom.

§ 2. All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved February 17, 1931.

### CHAPTER 301

(S. B. No. 242—Committee on Delayed Bills.)

#### CONTRACT FOR BUILDING TOWNSHIP ROADS BY COUNTY

An Act authorizing the board of supervisors of any township in any county owning and operating a county road outfit to enter into a contract with the board of county commissioners for the building of township roads by the county.

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

§ 1. In any county owning and operating a county road outfit, for the building of county roads, it shall be lawful, and the township board may enter into a contract with the Board of County Commissioners of such county, for the building and grading of

township roads, without first having had an election and without the necessity of advertising for bids. Any contract so entered into, between a township board and the Board of County Commissioners for the construction of township roads by the county, shall be legal and binding, though no election has been held and no bids called for.

Approved March 17, 1931.

CHAPTER 302  
(S. B. No. 12—Jones.)

TOWNSHIP DISSOLUTION

An Act to amend and re-enact Sections 4277 and 4278 of the Compiled Laws of North Dakota for the year 1913, relating to the dissolution of townships and vote thereon.

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

§ 1. AMENDMENT.] That Sections 4277 and 4278 of the Compiled Laws of North Dakota for the year 1913 are hereby amended and re-enacted to read as follows:

§ 4277. PETITION FOR DISSOLUTION. NOTICE OF ELECTION.] When an application signed by one-half of the legal voters of any organized civil township within this State shall be presented to the Board of Supervisors of such civil township at least ten days prior to the second Tuesday in March in any year, asking for a dissolution of such organized civil township, setting forth the reasons therefor, such petition shall be considered by said Board of Supervisors at its regular meeting on the second Tuesday in March in such year, and if said petition has subscribed thereto the requisite number of qualified signers such question of dissolution shall be submitted to the voters of said organized civil township at the regular annual meeting of the township held on the third Tuesday in March of each year, after five days' notice thereof, as hereinafter provided. Said notice shall be signed by the town clerk of such civil township, and shall be by him posted in five of the most public places in such civil township, at least five days prior to such annual meeting, and also, he shall cause such notice to be published in a legal newspaper published in said county once before the time appointed for such election. Each notice shall specify the question of dissolution to be submitted at said annual meeting.

§ 4278. SHALL VOTE BY BALLOT.] The Board of Supervisors of such civil township shall preside at such meeting, and the polls shall be opened and closed as at other township meetings, and the voters shall vote by ballot, "yes" or "no", and the result of the vote shall be publicly announced after the polls close and as soon as ascertained by the officers of such meeting, and if a majority of all the votes cast shall be "yes", a statement of the vote signed by the Chairman of the Board of Supervisors of such civil

township, and attested by the clerk thereof, shall be filed in the office of the County Auditor of the county within which such civil township lies, and such civil township shall on the first day of January next succeeding the time of holding such meeting cease to be a corporation; provided, the property belonging to such civil township, after the payment of its debts and liabilities, shall be disposed of in such manner as a majority of the voters of such civil township at any special meeting may have directed. And all of the records of such civil township shall be turned over by the officers of said civil township to the County Auditor of the county wherein said district lies, for preservation and safe keeping.

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

Approved March 10, 1931.

CHAPTER 303  
(H. B. No. 294—Correll.)

**PURCHASE FIRE EQUIPMENT TOWNSHIP SUPERVISORS**

An Act authorizing and empowering the board of township supervisors of a civil township or the township supervisors of one or more adjoining civil townships jointly, under certain conditions to provide fire engines and other implements for the prevention and extinguishment of fires and to provide for housing of such equipment.

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

§ 1. PURCHASE OF FIRE EQUIPMENT BY TOWNSHIP SUPERVISORS.] Township supervisors of any civil township in the State of North Dakota are hereby authorized and empowered, when instructed so to do, by a vote of two thirds of the electors voting at any township election, after at least ten notices have been posted in ten different places within the said township, for at least ten days prior to such election stating that such question will be submitted at said annual election, to purchase or provide fire engines, hose, hooks and ladders and other implements for the prevention and extinguishment of fires and provide for the use and management of the same by voluntary fire companies or otherwise, such equipment to be paid for out of the general fund in the township treasury; that two or more townships may jointly purchase the fire equipment hereinbefore mentioned to be used jointly in such townships for the prevention and extinguishment of fires. If the fire equipment hereinbefore mentioned is purchased jointly by two or more adjoining townships, such townships shall jointly provide for the use and management of the same by voluntary fire companies or otherwise and may designate the place where such fire equipment shall be kept and housed, and the said fire equipment shall be the joint property of all of the townships contributing to the purchase price thereof. Such fire equipment shall be purchased upon com-

petitive bids when the amount to be paid for the same exceeds the sum of Three Hundred Dollars (\$300.00); that in all cases advertisements for bids shall be published in the official newspaper of the county wherein such townships are located for two consecutive weeks immediately preceding the date for opening bids. The notice for advertisement of bids shall be by resolution of the township supervisors authorizing the township clerk to advertise for such bids. If the purchase is to be by two or more townships jointly, the resolution hereinbefore mentioned shall be by all of the township supervisors of such civil townships and the resolution in such cases shall designate the clerk of one of such townships to advertise for such bids.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this Act shall take effect and be in force from and after the date of its passage and approval.

Approved March 11, 1931.

## VALIDATIONS

### CHAPTER 304

(S. B. No. 71—Matthaei.)

#### LEGALIZATION DEEDS, JUDGMENTS, DECREES

An Act to legalize certain deeds, judgments, decrees, mortgage foreclosures and other transfers of real property.

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

§ 1. DEEDS, JUDGMENTS, DECREES, MORTGAGE FORECLOSURES AND OTHER TRANSFERS LEGALIZED.]

Deeds, Judgments, Decrees, Mortgage Foreclosures or other transfers, including Sheriff's Certificates of Sale, affecting the title to real property in this State, in good faith taken, made or rendered in favor of or in the name of a deceased person or the estate of a person deceased, or to the Executor or Administrator thereof, prior to the first day of January, 1931, shall be construed and held to be made in favor of, and be in favor of, the domestic or foreign Executor or Administrator (as the case may be) of the estate of such person deceased, and the same are hereby declared to be legal and valid for all purposes, and such Executor or Administrator is hereby authorized and empowered to assign, transfer and set over to the person or persons entitled thereto, any or all such property, provided further, that in the event a Final Decree of Distribution has heretofore been issued, by any domestic or foreign Court relating to any property so acquired by Deed, Judgment, Decree, Mortgage Foreclosure or other transfer, assigning or transferring any such property to any person or persons, such Final Decree of Distribution shall fully and completely vest in and transfer to such

person or persons so designated, all right, title, interest, claim or demand thereto of the deceased and his estate.

§ 2. In case of a Sheriff's Certificate of Sale of any real property in this State, so made in favor of, or in the name of a deceased person, or of the estate of a deceased person, or the Executor or Administrator thereof, prior to the first day of January, 1931 and on which a Sheriff's Deed has not been issued, it shall be lawful and proper in case of the issuance of a Sheriff's Deed upon such Certificate, to issue the same to such domestic or foreign Executor or Administrator of said estate, as the case may be, or in the event a Final Decree of Distribution has heretofore been issued by any domestic or foreign Court having had jurisdiction and control of a mortgage under and through which a Sheriff's Certificate was obtained, assigning or transferring such Sheriff's Certificate to any person or persons, it shall be lawful and proper to issue a Sheriff's Deed to the person or persons to whom such Certificate has been assigned or transferred, upon the recording of an authenticated copy of such Decree in the office of the Register of Deeds of the County in which such property is located.

§ 3. The fact that any such Deed, Judgment, Decree or other transfer shall have been issued, shall be in itself presumptive evidence of good faith.

§ 4. EMERGENCY.] Whereas, some question has arisen as to the legal effect of certain Deeds, Judgments, Decrees and other transfers affecting real estate, in this State, made to or rendered in favor of the estate of a person deceased and the sufficiency of title thereto is dependent thereon, therefore this Act is declared an emergency and shall be in full force and effect immediately upon its passage and approval.

Approved March 6, 1931.

CHAPTER 305  
(S. B. No. 131—Sperry.)

LEGALIZING EXECUTIONS AND ACKNOWLEDGMENTS  
CERTAIN DEEDS, MORTGAGES, ETC.

An Act to legalize the execution and acknowledgment of certain deeds, mortgages, and other instruments in writing, and the record thereof, and making the same or certified copies thereof, admissible in evidence.

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

§ 1. EXECUTION, ACKNOWLEDGEMENT, FILING AND RECORDING LEGALIZED.] The execution, acknowledgement, filing and recording of all deeds, mortgages and other instruments in writing affecting the title to real property in this State, in good faith made, taken or certified to prior to the first day of January, 1931, and which have been filed or recorded in the proper counties of this State, be, and the same are hereby declared to be legal and valid for

all purposes, anything in the laws of the State of North Dakota, or of any other state, territory or country at the time of such execution, acknowledgement, witnessing, filing or recording, to the contrary notwithstanding.

§ 2. ACTS OF EXECUTORS, ADMINISTRATORS, DEPUTIES, OFFICERS OR ATTORNEYS-IN-FACT LEGALIZED.] The acts of all properly appointed and constituted executors, administrators, officers of corporations, deputy public officials and attorneys-in-fact, done in good faith, in the execution and acknowledgement of such instruments, are hereby declared to be valid for all purposes, notwithstanding the fact that such executor, administrator, officer, deputy officer or attorney-in-fact may not have signed the same in the form provided by law in force at that time or that the same was not sealed or stamped as required by laws in force at the time of such execution, and notwithstanding the fact that the certificate of acknowledgment thereon may not be in the form required or sealed as required by any laws in force at the time of making the same.

§ 3. ACKNOWLEDGEMENTS LEGALIZED.] The acts of all notaries public, justices of the peace, or other officers, done in good faith in taking or certifying to the acknowledgment of such instruments, whether within or without the State, and whether such officers were qualified or otherwise by law at the time to do so or not, are hereby declared legal and valid for all purposes.

§ 4. GOOD FAITH PRESUMED.] Good faith shall be presumed on the part of all persons and officers in the execution, acknowledgment, filing and recording of such instruments and it shall be prima facie presumed that such officer acted within the scope of his authority. Provided, that nothing in this act shall be construed to validate any deed, transfer or other instrument in writing where there shall be now pending any suit, action or proceeding of any kind affecting the title to any real property owned by the State of North Dakota or any subdivision thereof, or of any person, firm or corporation.

Approved March 11, 1931.

CHAPTER 306  
(S. B. No. 161—Cain)

LEGALIZATION JUDGMENTS AND SALES FORECLOSURE  
REAL ESTATE

**An Act to legalize and validate judgments and sales in the foreclosure of mortgages upon real estate by action prior to the taking effect of this act where the assignment or assignments of the mortgage were not recorded before the instituting of the action to foreclose such mortgage by the assignee of the mortgagee.**

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

§ 1. All judgments of foreclosure obtained, entered and filed prior to the passage and taking effect of this Act, by the assignee

of a mortgagee in any action for the foreclosure of a mortgage upon real estate, and all sales of real estate under such judgment of foreclosure prior to the passage and taking effect of this Act, are hereby declared legal and valid in all respects and for all purposes, even though the assignment or assignments of such mortgage were not recorded prior to the instituting of such action in foreclosure, provided such assignment or assignments were executed and recorded before the entry or filing of the judgment of foreclosure.

Approved March 11, 1931.

CHAPTER 307  
(H. B. No. 145—Swingen.)

LEGALIZATION REAL ESTATE MORTGAGE FORECLOSURE  
SALES

An Act to legalize and validate real estate mortgage foreclosure sales made prior to the taking effect of this act where the power of attorney to foreclose was executed and filed prior to the sale, but was not executed prior to the beginning of foreclosure proceedings.

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

§ 1. All sales of real estate made under a foreclosure of mortgages prior to the passage and taking effect of this Act are hereby declared legal and valid for all purposes, even though the power of attorney to foreclose was not executed and delivered to the attorney or attorneys named therein prior to the commencement of such foreclosure proceedings, providing the power of attorney to foreclose was executed and recorded in the office of the Register of Deeds of the County wherein said real estate is located prior to the time of said sale.

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

Approved March 2, 1931.

CHAPTER 308  
(H. B. No. 7—Fitch.)

VALIDATION REAL PROPERTY SALES BY COUNTY  
COMMISSIONERS

An Act validating certain sales of real property by boards of county commissioners of the State of North Dakota.

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

§ 1. CERTAIN SALES VALIDATED.] Any sale of real property made and consummated more than three years prior to January 1st, 1931 by any Board of County Commissioners in any of the various Counties in the State of North Dakota, under the provisions of Section 3274 of the Compiled Laws of the State of North Dakota for

the year 1913, is hereby validated and confirmed, and no action shall hereafter be commenced to vacate or set aside the same; provided, however, that this Act shall not apply to any such sale where an action or proceeding shall have been brought to vacate or set aside the same prior to the first day of July, 1931.

§ 2. EMERGENCY.] Whereas, certain sales of real property by the Board of County Commissioners in certain of the Counties of the State of North Dakota, under Section 3274 of the Compiled Laws of North Dakota for the year 1913, have been questioned by parties other than county officials, by reason of certain claimed irregularities in the proceedings of such Board or Boards; and whereas, innocent purchasers of titles to such property may by reason thereof be required to expend time and money in correcting such claimed irregularities in such proceedings, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1931.

## VETERANS

### CHAPTER 309 (H. B. No. 68—Fitch.)

#### VETERANS GUARDIANSHIP

An Act concerning the guardianship of incompetent veterans and of minor children of disabled or deceased veterans, and the commitment of veterans and to make uniform the law with reference thereto.

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

§ 1. As used in this Act:

The term "Person" includes a partnership, corporation or an association.

The term "Administration" means the Veterans' Administration or its successor.

The terms "Estate" and "Income" shall include only moneys received by the guardian from the Administration and all earnings, interest and profits derived therefrom.

The term "Benefits" shall mean all moneys payable by the United States through the Administration.

The term "Administrator" means the Administrator of the Veterans' Administration or his successor.

The term "Ward" means a beneficiary of the Administration.

The term "Guardian" as used herein shall mean any person acting as a fiduciary for a ward.

§ 2. Whenever, pursuant to any law of the United States or regulation of the administration, the administration requires, prior



to payment of benefits, that a guardian be appointed for a ward, such appointment shall be made in the manner hereinafter provided.

§ 3. Except as hereinafter provided it shall be unlawful for any person to accept appointment as guardian of any ward if such proposed guardian shall at that time be acting as guardian for five wards. In any case, upon presentation of a petition by an attorney of the administration under this section alleging that a guardian is acting in a fiduciary capacity for more than five wards and requesting his discharge for that reason, the court, upon proof substantiating the petition, shall require a final accounting forthwith from such guardian and shall discharge such guardian in said case.

The limitation of this section shall not apply where the guardian is a bank or trust company acting for the wards' estates only. An individual may be guardian of more than five wards if they are all members of the same family.

§ 4. A petition for the appointment of a guardian may be filed in the county court having jurisdiction by or on behalf of any person who under existing law is entitled to priority of appointment. If there be no person so entitled or if the person so entitled shall neglect or refuse to file such a petition within thirty days after mailing of notice by the Administration to the last known address of such person indicating the necessity for the same a petition for such appointment may be filed in the court having jurisdiction by or on behalf of any responsible person residing in this State.

The petition for appointment shall set forth the name, age, place of residence of the ward, the names and places of residence of the nearest relatives, if known, and the fact that such ward is entitled to receive moneys payable by or through the administration and shall set forth the amount of moneys then due and the amount of probable future payments.

The petition shall also set forth the name and address of the person or institution, if any, having actual custody of the ward.

In the case of a mentally incompetent ward the petition shall show that such ward has been rated incompetent on examination by the administration in accordance with the laws and regulations governing the administration.

§ 5. When a petition is filed for the appointment of a guardian of a minor ward a certificate of the administrator, or his representative, setting forth the age of such minor as shown by the records of the administration and the fact that the appointment of a guardian is a condition precedent to the payment of any moneys due the minor by the administration, shall be prima facie evidence of the necessity for such appointment.

§ 6. When a petition is filed for the appointment of a guardian of a mentally incompetent ward a certificate of the administrator, or his representative, setting forth the fact that such person has been rated incompetent by the administration on examination

in accordance with the laws and regulations governing such administration; and that the appointment of a guardian is a condition precedent to the payment of any moneys due such person by the administration, shall be prima facie evidence of the necessity for such appointment.

§ 7. Upon the filing of a petition for the appointment of a guardian, under the provisions of this Act, the court shall cause such notice to be given as provided by law.

§ 8. Before making an appointment under the provisions of this Act the court shall be satisfied that the guardian whose appointment is sought is a fit and proper person to be appointed. Upon the appointment being made the guardian shall execute and file a bond to be approved by the court in an amount not less than the sum then due and estimated to become payable during the ensuing year. The said bond shall be in the form and be conditioned as required of guardians appointed under the guardianship laws of this State. The court shall have the power from time to time to require the guardian to file an additional bond.

When a bond is tendered by a guardian with personal sureties, such sureties shall file with the court a justification under oath to the effect that they are each worth the sum named in the bond as the penalty thereof over and above all their debts and liabilities and exclusive of property exempt from execution.

§ 9. Every guardian, who shall receive on account of his ward any moneys from the administration, shall file with the court annually, on the anniversary date of the appointment, in addition to such other accounts as may be required by the court, a full, true and accurate account under oath of all moneys so received by him, of all disbursements thereof, and showing the balance thereof in his hands at the date of such account and how invested. A certified copy of each of such accounts filed with the court shall be sent by the guardian to the office of the administration having jurisdiction over the area in which such court is located. The court shall fix a time and place for the hearing on such account not less than fifteen days nor more than thirty days from the date of filing the same and notice thereof shall be given by the court to the aforesaid administration office not less than fifteen days prior to the date fixed for the hearing. Notice of such hearing shall in like manner be given to the guardian.

§ 10. If any guardian shall fail to file any account of the moneys received by him from the administration on account of his ward within thirty days after such account is required by either the court or the administration, or shall fail to furnish the administration a copy of his accounts as required by this Act, such failure shall be grounds for removal.

§ 11. Compensation payable to guardians shall not exceed five per cent of the income of the ward during any year. In the

event of extraordinary services rendered by such guardian the court may, upon petition and after hearing thereon, authorize additional compensation therefor payable from the estate of the ward. Notice of such petition and hearing shall be given the proper office of the administration in the manner provided in Section 9. No compensation shall be allowed on the corpus of an estate received from a preceding guardian. The guardian may be allowed from the estate of his ward reasonable premiums paid by him to any corporate surety upon his bond.

§ 12. Every guardian shall invest the funds of the estate in such manner or in such securities, in which the guardian has no interest, as allowed by law or approved by the court.

§ 13. A guardian shall not apply any portion of the estate of his ward for the support and maintenance of any person other than his ward, except upon order of the court after a hearing, notice of which has been given the proper office of the administration in the manner provided in Section 9.

§ 14. Whenever a copy of any public record is required by the administration to be used in determining the eligibility of any person to participate in benefits made available by such administration, the official charged with the custody of such public record shall without charge provide the applicant for such benefits or any person acting on his behalf or the representative of such administration with a certified copy of such record.

§ 15. Whenever it appears that a veteran of any war, military occupation or expedition is eligible for treatment in a United State Veterans' Bureau Hospital and commitment to such hospital is necessary for the proper care and treatment of such veteran, the County Court is hereby authorized to communicate with the official in charge of such hospital with reference to available facilities and eligibility, and upon receipt of a certificate from the official in charge of such hospital the court may then direct such veteran's commitment to such United States Veterans' Bureau Hospital. Thereafter such veteran upon admission shall be subject to the rules and regulations of such hospital and the officials of such hospital shall be vested with the same powers now exercised by superintendents of state hospitals for mental diseases within this state with reference to the retention of custody of the veteran so committed. Notice of such pending proceedings shall be furnished the person to be committed and his right to appear and defend shall not be denied.

§ 16. When a minor ward for whom a guardian has been appointed under the provisions of this Act or other laws of this State shall have attained his or her majority, and if incompetent shall be declared competent by the administration and the court, and when any incompetent ward, not a minor, shall be declared competent by said administration and the court, the guardian shall

upon making a satisfactory accounting be discharged upon a petition filed for that purpose.

§ 17. This Act shall be construed liberally to secure the beneficial intents and purposes thereof and shall apply only to beneficiaries of the administration.

§ 18. This Act may be cited as the "Uniform Veterans' Guardianship Act".

§ 19. This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 20. The invalidity of any portion of this Act shall not affect the validity of any other portion thereof which can be given effect without such invalid part.

§ 21. All laws or parts of laws relating to beneficiaries of the administration inconsistent with this Act are hereby repealed.

§ 22. This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 10, 1931.

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## VILLAGES

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### CHAPTER 310

(H. B. No. 115—Lamb and Nelson.)

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#### APPOINTMENT VILLAGE POLICEMAN AND NIGHT WATCHMAN

An Act providing for the appointment of policeman and night watchman by the board of trustees of an incorporated village.

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

§ 1. APPOINTMENT OF VILLAGE POLICEMAN AND NIGHT WATCHMAN AUTHORIZED.] The Board of Trustees of any incorporated village in the State of North Dakota is hereby authorized and empowered to appoint one or more night watchmen or policemen when deemed necessary to the preservation of the peace of the village, and are hereby authorized and empowered to fix the compensation of such officers.

Any officer so appointed shall qualify by taking oath of office, and shall possess all the powers and perform all the duties now provided by law for village marshals.

Approved March 7, 1931.

# WEIGHTS AND MEASURES

## CHAPTER 311

(H. B. No. 93—Gibbens and Olafson.)

### INSPECTION SCALES, WEIGHTS AND MEASURES

An Act to amend and re-enact Chapter 259 of the 1929 Session Laws providing for an inspection of scales, weights and measures under the jurisdiction of the State Food Commissioner; prescribing powers and duties; defining the standard of weights and measures; providing licensing of gasoline pumps and coin weighing machines or scales and providing penalties for the violation of the provisions of this act.

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

§ 1. AMENDMENT.] Chapter 259, 1929 Session Laws of North Dakota is hereby amended and re-enacted to read as follows:

Chapter 259. There is hereby created a department to be known as the "Department of Weights and Measures", hereafter referred to as the "Department", and such Department shall be under the jurisdiction of the State Food Commissioner, hereafter referred to as the "Commissioner", who shall have supervision and control of all weights, weighing devices, gasoline pumps, coin weighing machine or scales and measures in this State.

§ 2. The State Food Commissioner shall appoint and fix the compensation of a chief inspector of weights and measures who shall be the head of the Department of Weights and Measures and shall hold his office for a term of two years or until his successor is appointed and qualified, and shall be removable for cause only. The Commissioner shall employ such expert scalemen or other employees as may be necessary to carry out the provisions of this Act and fix their compensation. The Chief Inspector, expert scalemen and other employees shall each give a bond to be furnished by the State of North Dakota in the sum of One Thousand (\$1000.00) Dollars, such bonds to be conditioned upon the faithful discharge of the duties of each of said officers or employees, the premiums on such bonds to be payable out of the State Regulatory Fund.

§ 3. The Commissioner shall prescribe and adopt such rules and regulations and may change and modify any or all rules, schedules and regulations whenever deemed necessary and the rules, regulations and schedules so made shall have the force and effect of law.

§ 4. The Chief Inspector shall have charge of, keep and maintain in good order the standard of weights and measures of the State and submit them to the Bureau of Standards at Washington, D. C. for certification when he deems it necessary, and shall keep a seal so formed as to impress the letters "N. D." and

the date of sealing upon the weights and measures that are sealed; he shall test, correct and seal when found to be accurate, at least once every year and as much oftener as may be necessary, all the copies of the standards used throughout the State for the purpose of testing the weighing or measuring apparatus used in the State, and keep a record thereof; he shall have general supervision of the weights, measures and weighing or measuring devices offered for sale, sold or used in the State, and shall upon the written request of any person, test or calibrate weights, measures, weighing or measuring devices and instruments or apparatus used as standards in the State; he shall keep a complete record of the standards, balances and all testing and sealing apparatus owned by the State and shall biennially during the first fifteen days of January, make a report of his actions to the Governor of the State.

§ 5. The Chief Inspector or any of the employees of the Weights and Measures Department shall have power to test all scales, weights, beams and measures of every kind, instruments and mechanical devices for measurements, and tools, appliances or accessories connected with any or all such instruments for measurement that are kept, offered or exposed for sale, or sold or used or employed within this State by any person in determining the size, quantity, extent, area or measurement of quantities, things, produce, articles for distribution or consumption offered or submitted by any person for sale, hire or reward; and he shall at least once in each year and as much oftener as may be deemed necessary, see that the weights, measures, and all apparatus used in the State are correct. In the general performance of this duty the Chief Inspector, or any of the employees of the Weights and Measures Department, may enter or go into and upon any land, place, building or premise to stop any vendor, peddler, junk dealer, coal wagon, ice wagon or delivery, or any dealer whatsoever, and require him, if necessary, to proceed to some place which the inspector or employee of the department may specify, for the purpose of making proper test. Scales, weights, measures or weighing or measuring instruments that are found upon inspection to correspond with the standards in the possession of the department shall be sealed with the proper devices to be approved by the Chief Inspector. The Chief Inspector or any employee shall condemn, seize or destroy incorrect weights, measures or weighing or measuring devices which in the judgment of the inspector cannot be satisfactorily repaired and such as are incorrect and yet may be repaired shall be marked as "condemned for repair" in the manner to be prescribed by the inspector. The owner or user of any scales, weights, measures or weighing or measuring instrument which have been so disposed of shall have the same repaired or corrected within thirty days, and the same shall not be used or disposed of in any way without the consent of the inspector.

§ 6. Any person who shall offer or expose for sale, sell or use or have in his possession a false scale, weight or measure, or weighing or measuring device or any weight or measure or weighing or measuring device which has not been sealed within one year as provided by this Act, or use the same in the buying or selling of any commodity or things, or who shall dispose of any condemned weight, measure or weighing or measuring device or remove any tag placed thereon by any authorized employee of the Commissioner or shall sell or offer or expose for sale less than the quantity it represents, or sell or offer or expose for sale any such commodities in the manner contrary to law, or shall sell or offer for sale or have in his possession for the purpose of selling, any device or instrument to be used or calculated to falsify any weight or measure or shall refuse to pay any fee charged for testing and sealing or condemning any scale, weight or measure or weighing or measuring device, shall be guilty of a misdemeanor and shall upon conviction be fined a sum not less than Twenty (\$20.00) Dollars or more than One Hundred (\$100.00) Dollars, or by imprisonment in the county jail for not less than ten nor more than thirty days and the cost of such proceedings. No scale, weight, measure or weight or measuring device that has been sealed by the inspector or employee of the Department of Weights and Measures shall be used, sold or exposed for sale until the fee charged for the service has been paid.

§ 7. Any person hindering, impeding or restricting in any way any of the employees of the department while in the performance of his official duties shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty (\$20.00) Dollars nor more than One Hundred (\$100.00) Dollars or by imprisonment for not less than ten nor more than ninety days for each offense.

§ 8. The Chief Inspector, with the approval of the Commissioner, shall have power and authority to purchase or lease any apparatus or equipment necessary for carrying out the provisions of this Act and to dispose of by sale any and all standards of weights and measures, balances, testing apparatus and sealing equipment which has come into his possession and custody, and of any other standards of weights and measures, balances, testing apparatus and sealing equipment which may come into his custody and possession in the performance of his duties imposed by this Act, whenever the Inspector with the approval of the Commissioner shall determine that any of such standards of weights and measures, balances, testing apparatus and sealing equipment are obsolete or unsuitable for the performance of the duties imposed by this Chapter upon the Inspector. Any moneys derived by the Commissioner from such sale or disposal shall be disposed of by the Commissioner in the same manner as is provided for in this Act for the disposal of fees for services performed under the provisions of this Act.

§ 9. The Chief Inspector or other employee of the Department or (of) weights and measures shall charge and collect fees annually in accordance with the following schedule:

For inspection and sealing of railroad and track scales of capacity of 20 tons and upwards.....	\$ 10.00
For inspection and sealing dormant or hopper scales, each....	5.00
For inspecting and sealing movable platform scales (other than coin weighing machines or scales).....	1.00
For inspecting and sealing counter or computing scales, each	.50
For inspecting and sealing any scale of fifty pound capacity or less .....	.25
For inspecting and sealing every patent balance, beam, steel yard or other instrument used for weighing other than the above enumerated, each .....	.50
For inspecting and sealing any 2 bu. or 1 bu. measure.....	.25
For inspecting and sealing any other dry measure, each.....	.10
For inspecting and sealing liquid measures of a capacity of five gallons or more (excluding gasoline pumps) each....	.50
For inspecting and sealing liquid measures of less than 5 gal.	.25
For inspecting and sealing any board or cloth measure, each..	.10

When the Inspector or other employees of the Department of Weights and Measures shall find any of the instruments or articles used in weighing or measuring to be wrongly adjusted, misconstructed, out of repair or in any other condition which can be remedied by him, it shall be his duty to correct such scale or measure and he shall receive for such service One (\$1.00) dollar per hour for the actual time consumed in making such corrections and shall receive just compensation for any material used in such corrections.

§ 10. All office expenses, all costs and expense of equipment, all salaries and all expenditures necessarily incurred in the performance of this Act shall be paid on proper warrant from the "State Regulatory Fund" heretofore created, and all fees collected under the provisions of this Act shall be covered into such fund. The Commissioner is hereby required to keep separate and accurate records of all expenses incurred and all fees collected.

§ 11. The word "Person" shall be construed to mean person or persons, corporations, partnerships, stock companies or the agent or employee thereof. The phrase "Public Scale" shall mean any scale or weighing device for the use of which a charge is made or compensation is derived. The phrase "Gasoline Pump" shall mean any pump, meter or similar measuring device used for measuring gasoline for sale.

§ 12 (a) Every person who shall use or display for use any public coin-weighing machine or scale or public gasoline pump shall secure a license for such machine or scale or pump from the Department. The license fee shall be One (\$1.00) Dollar per an-



num for each gasoline pump and Two (\$2.00) Dollars and twenty-five cents per annum for coin weighing machine or scale and each license shall expire on June 30th of each year. Proceeds therefrom shall be covered into the Regulatory Fund.

(b) The license shall be in the form of a metal plate bearing the words "Licensed by the State of North Dakota, No....." Each plate shall be numbered consecutively and bear the year for which the license was granted. The license plate shall be displayed prominently on the front of a coinweighing machine or pump. Absence of the license plate shall be prima facie evidence that the weighing machine or device is being operated contrary to law. After August 1st of each year, the Inspector of Weights and Measures or his duly authorized agent is hereby authorized to seize, confiscate or seal all coin-weighing machines not licensed and to seal and lock any gasoline pump not licensed.

§ 13. On or before July 1st of each and every year the owner, proprietor or managing agent operating, conducting and maintaining a public gasoline pump or public coin weighing machine or scale, shall make application to the Commissioner for an annual license. Such application shall state the name of the owner, manager or proprietor of the pump or scale to be licensed, a general description of the location of such pump or scale and shall state that such pump or scale will be operated, if licensed by the Commissioner, in accordance with the laws of this State. This application shall be made upon a blank authorized and issued by the Commissioner and such application shall be accompanied by the license fee hereinbefore specifically prescribed.

§ 14. The Commissioner shall establish uniform tolerance or reasonable variances to take care of unavoidable shrinkage or of scale variances in the handling or weighing of any commodity.

§ 15. Any person who shall violate this Act, or any part thereof wherein a special penalty has not been provided, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed One Hundred (\$100.00) Dollars or to be confined in the county jail not to exceed thirty days, or by both such fine and imprisonment.

Approved March 7, 1931.

# WORKMEN'S COMPENSATION

## CHAPTER 312

(H. B. No. 209—Cox by Request.)

### CLASSIFICATION OF EMPLOYMENTS

An Act to amend and re-enact Section 396a7 of the Supplement to the Compiled Laws of 1913.

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

§ 1. AMENDMENT.] That Section 396a7 of the Supplement to the Compiled Laws of North Dakota for 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 396a7. Classification of employments; premium rates; payment into fund; second injuries; premiums in case of. The Workmen's Compensation Bureau shall classify employments with respect to their degrees of hazard, and shall determine the risks of different classifications, and shall fix the rates of premium for each of said classifications sufficiently high to provide for the payment of the expenditures of the Bureau, the payment of compensation according to the schedules established by this Act, and for the maintenance of adequate reserves and surplus by the North Dakota Workmen's Compensation Fund, to the end that such fund may be kept at all times in an entirely solvent condition.

The Bureau may establish a system of merit rating within any class which will tend to equitable treatment of individual employers.

It shall be the duty of the Workmen's Compensation Bureau, in the exercise of the powers and discretion conferred upon it, ultimately to fix and maintain, for each class of occupation, the lowest possible rates of premium consistent with the payment of compensation according to schedule, the payment of expenditures of the Bureau, the maintenance of a solvent compensation fund, and the creation and maintenance of a reasonable surplus after the payment of legitimate claims for injury and death that it may authorize to be paid from the Workmen's Compensation Fund for the benefit of the injured and the dependents of deceased employees, and in order that said object may be accomplished, the Bureau shall observe the following requirements in classifying occupations and fixing the rates of premium for the risks of the same.

It shall keep an accurate account of the moneys paid in premiums by each of the several classes of occupations or industries and the disbursements on account of injuries and death of employees thereof, and it shall also keep an account of the moneys received from each individual employer and the amount disbursed from the Workmen's Compensation Fund on account of injuries and death of the employees of each employer.

Ten (10) per cent of the moneys that is paid into the Workmen's Compensation Fund shall be set aside for the creation of a surplus until such surplus shall amount to the sum of fifty thousand dollars (\$50,000.00), after which time the sum of five (5) per cent of all the moneys paid into such Workmen's Compensation Fund shall be credited to such surplus fund, until such time as, in the judgment of the Bureau, such surplus shall be sufficiently large to guarantee the Workmen's Compensation Fund from year to year.

Every employer subject to this Act shall pay, annually, into the Workmen's Compensation Fund the amount of premium determined and fixed by the Bureau for the employment or occupation of such employer, the amount of which premium to be so paid by such employer to be determined by the classification, rules and rates made and published by the Bureau; and a receipt or certificate specifying that such payment has been made shall immediately be mailed to such employer by the Bureau, which receipt or certificate, attested by the seal of the Bureau, shall be prima facie evidence of the payment of such premium. The Bureau may make provisions so that premiums fall due on different dates to the end that the business of the Bureau may be distributed as evenly as possible throughout the year.

In the event that the amount of premium collected from any employer at the beginning of any premium period is ascertained and calculated by using the estimated expenditures for wages for the period of time covered by such premium payments, as a basis, an adjustment of the amount of such premiums shall be made at the end of said period, the actual amount of such premium to be determined from the actual expenditure of wages for said period.

Whenever a subsequent injury occurs to an employee who has been injured previously in a different employment, the risk of the employer for whom such injured person was working at the time of such subsequent injury shall be charged only with the amount of the awards resulting from such subsequent injury; and whenever such subsequent injury, in connection with a previous injury, results in a permanent total disability, the compensation which is in excess of the amount to which the injured employee would have been entitled solely by the subsequent injury shall be charged to the surplus fund and not to the classification or the risk to which the subsequent injury is charged.

In case of aggravation of any disease existing prior to a compensable injury, compensation shall be allowed only for such proportion of the disability due to the aggravation of such prior disease as may reasonably be attributable to the injury.

§ 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] This Act is declared an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 11, 1931.

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CHAPTER 313

(H. B. No. 188—Jardine.)

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**COMPENSATION INJURIES OCCURRING OUTSIDE OF STATE**

An Act to amend and re-enact Section 10 of Chapter 350 of the Laws of North Dakota for the year 1923, providing for the payment of compensation out of the Workmen's Compensation Fund and providing that compensation shall be paid for injuries and deaths from injuries occurring outside of the State of North Dakota only under circumstances as provided in the act, and legalizing and validating claims arisen under said act subsequent to July 1st, 1930.

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

§ 1. AMENDMENT.] That Section 10 of Chapter 350 of the Laws of North Dakota for 1923, relating to the disbursement of the Workmen's Compensation Fund to employees, who have been injured in the course of their employment, wherever such injuries have occurred, is hereby re-enacted to read as follows:

§ 10. The Workmen's Compensation Bureau shall disburse the Workmen's Compensation Fund to such employees of employers as have paid into the said Fund the premiums applicable to the classes to which they belong, who have been injured in the course of their employment, wherever such injuries have occurred, or to their dependents in case death has ensued, and such payment or payments to such injured employees, or to their dependents in case death has ensued, shall be in lieu of any and all rights of action whatsoever against the employer of such injured or deceased employee, but no compensation shall be paid on account of injuries occurring outside of the State of North Dakota, nor because of death due to an injury occurring outside of the State of North Dakota, unless such employee is an appointive peace officer of any County of this State, receiving injury or meeting with death outside of the State of North Dakota in the course of his employment, or, unless the employer and the Bureau shall have previously contracted for insurance protection for employees while working outside of the State in the employment in which the injury occurred. Providing that no such contract, with the exception as herein stated, shall be issued to any employer unless his principal plant and main or general office is located in North Dakota, and at least two-thirds of whose entire payroll is used or expended for work performed in the State of North Dakota.

“§ 2. The Workmens Compensation Bureau is hereby authorized and directed to consider, allow and pay all claims for injuries received by any appointive peace officer of any County of this

State outside of the State in the course of his employment and in pursuance of his duties subsequent to July 1st, 1930 and also to consider, allow and pay all claims made by any claimant for injuries occurring outside the State and whose claim was rejected by said Bureau subsequent to July 1st, 1930, and it appears that the full premium applicable to the class to which said claimant belonged for injuries occurring inside the State, was paid into the Fund by the claimant's employer."

"§ 3. EFFECT OF PARTIAL INVALIDITY.] The object sought to be accomplished by this enactment is to provide for the payment of claims for injuries sustained, by appointive peace officers of any county of this state, outside of the State of North Dakota in the course of their employment and in pursuance of their duties as provided in this act. And it is hereby declared that if any of the provisions of the act in any manner contravene the provisions of the Constitution, the remaining provisions would have been enacted by this Legislative Assembly even though such provisions had been eliminated from the act. Hence, if any of the provisions are found to be violative of the Constitution the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

§ 4. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval."

Approved March 11, 1931.

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CHAPTER 314  
(H. B. No. 207—Cox)

**POWERS AND DUTIES WORKMEN'S COMPENSATION BUREAU**  
An Act to amend Section 4 of Chapter 162 of the Session Laws of North Dakota for the year 1919, as amended by Chapter 285 of the Session Laws for 1927.

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

§ 1. AMENDMENT.] Section 4 of Chapter 162 of the Session Laws of North Dakota for the year 1919, as amended by Chapter 285 of the Session Laws of North Dakota for the year 1927, is hereby amended and re-enacted to read as follows:

§ 4. (A) A Workmens' Compensation Bureau is hereby created, consisting of three (3) Workmen's Compensation Commissioners to be appointed by the Governor. The Commissioners shall devote their entire time to the duties of the Bureau. One of the Commissioners shall be a representative of labor, one shall be a representative of the public, and one shall be a representative of the employers. Any or all of the Commissioners may be removed for cause.

Such newly re-organized Bureau shall at its first meeting held in July, A. D. 1931, and biennially thereafter at its first July meeting, select from its membership a chairman of such Bureau, who shall act in such capacity for a term of two years, or until his successor is selected and qualified.

(B) The terms of the Commissioners shall be six years, and, in order to provide for the expiration of one of said terms every two years, the terms of the Commissioners now in office are to expire as follows: Representative of the Public to expire January tenth, 1933; Representative of the Employers to expire January tenth, 1935; Representative of Labor to expire January tenth, 1937. Each Commissioner shall receive a salary of twenty eight hundred dollars (\$2,800.00) per year.

(C) Unless otherwise provided by the Legislature, the Bureau shall provide offices in some suitable building in the City of Bismarck, at the expense of the Workmen's Compensation Fund, and shall also provide, at the expense of said Fund, all necessary equipment, supplies, stationery, furniture, clerical and other assistance and help as may be deemed necessary, subject, however, to the maximum expenditure designated by the Legislature. The Bureau shall be governed by existing laws regulating the selection, grading and compensation of department clerks and other employees. The members of the Bureau and its assistants shall be entitled to receive from the Fund the actual and necessary expenses while traveling on the business of the Bureau. Vouchers for such expenses shall be sworn to and bear the approval of the Chairman before payment is made.

(D) The Bureau may make necessary expenditures to obtain statistical and other information required for the proper enforcement of this act.

(E) Not later than August first of each year next preceding the session of the Legislative Assembly, the State Auditor shall forward to the Workmen's Compensation Bureau, a suitable blank form to be filled out by said Bureau, giving an itemized statement of the amount of money which said Bureau considers necessary for the proper maintenance and operation of said Bureau, during the biennium next ensuing. Such blanks, properly filled out and signed, shall be returned to the State Auditor on or before the 1st day of October following its receipt, together with such data and statements as may be necessary to explain, properly and clearly, the purposes and needs of any such expenditures.

(F) The Bureau may make rules not inconsistent with this act for carrying out the provisions of this act. Process and procedure under the act shall be as summary and simple as reasonably may be; and to that end the Bureau shall not be bound by the usual common law or statutory rules of evidence or by any technical or formal rules of procedure, but may make investigation in such man-

ner and at such places as, in the judgment of the Bureau, shall be best calculated to ascertain the substantial rights of all the parties and to carry out, justly and fairly, the spirit of the act. The Bureau, or any member thereof, shall have the power to examine witnesses and records, with or without subpoena; to administer oaths to witnesses; to require the attendance of witnesses without fee whenever the testimony is taken at the home, office or place of work of such witnesses; and generally to do anything requisite or necessary to facilitate or promote the efficient administration of this act.

(G) A majority of the Bureau shall constitute a quorum for the transaction of business, and a vacancy created by the death, resignation or removal of any of the Commissioners shall not impair the right of the remaining members to exercise all of the powers of the full Bureau so long as a majority remains in active charge; provided, however, that neither the employers nor the employees shall remain without a representative upon the Bureau for a period of more than thirty days by reason of the death, resignation or removal of their representative.

(H) Any investigation, inquiry or hearing which the Bureau is authorized to hold or undertake may be held or undertaken by or before any one member of the Bureau; and all investigations, inquiries, hearings and decisions, and every order by any member thereof, when approved and confirmed by a majority of the members, shall be deemed to be the order or decision of the Bureau.

(I) The Bureau is hereby vested with full power and jurisdiction over, and shall have the supervision of, every employment and place of employment subject to this act, and shall, whenever necessary adequately to enforce and administer this act, issue and enforce all necessary and proper rules and safety regulations, and may designate some suitable person to inspect the premises of any employer to determine if such regulations or rules are being followed or complied with.

(J) Any employer as defined by the terms of this Act who shall fail to comply with any reasonable safety regulations made in accordance herewith, within twenty days after notice from the Workmen's Compensation Bureau, or its authorized agents, shall be guilty of a misdemeanor, and, upon conviction thereof in a court of competent jurisdiction, shall be subject to a fine of not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars; and, in addition to such fine as is hereinbefore provided, the Bureau shall be authorized to penalize the premium rating of the employer guilty of such violation, but not to exceed 10 per cent during the year or years such violation continues. Upon application and a proper and sufficient showing that the rules or regulations cannot be complied with within the twenty days herein specified, the Bureau may extend such time for such period as the facts in each case warrant, but not to exceed three months.

(K) It is hereby declared to be the intent of this act to restore to industry those injured in the course of employment; and the Bureau shall aid in carrying out the intent, assisting industrial cripples to obtain appropriate training, education and employment, by cooperating with the Federal Board of Vocational Education.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1931.

#### CHAPTER 315

(H. B. No. 208—Cox by Request.)

##### PREMIUMS WORKMEN'S COMPENSATION BUREAU

An Act to amend Section 396a8 of the Supplement to the Compiled Laws of 1913.

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

§ 1. AMENDMENT.] That Section 396a8 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 396a8. PREMIUMS; ESTIMATING; PAYMENT; INSTALLMENTS; DEFAULT; JUDGMENT FOR; PROSPECTIVE OPERATION; NONRESIDENTS; REMEDIES.] The Bureau shall determine the amount of premium due from every employer subject to the provisions of this act for the twelve months next succeeding the date of expiration of a previous period of insurance or next succeeding the date at which the Bureau received information that an employer is subject to the act. The Bureau shall then order such premium to be paid into the Fund, and shall mail a copy of such order to such employer. Such mailing shall constitute notice to the employer of the amount due.

If the employer is the State of North Dakota, or any department, industrial association or political subdivision thereof, and the amount of the premium is in excess of one hundred dollars (\$100), the same may be paid in two equal semiannual installments, at the option of the State, department, industrial association or political subdivision from which such payment is required, without filing any bond or undertaking, but interest shall be added at the rate of five (5) per cent upon the amount for which payment is so deferred.

In the case of any other employer if the total amount of premium specified in the pay-in-order is more than one hundred dollars (\$100) the employer may have the option of paying the same in two equal semi-annual installments or four equal quarterly installments, at the option of the employer. All deferred payments shall draw interest at the rate of five (5) per cent per annum. In all such cases of installment payment provided for in this paragraph the employer shall file, on or before the due date of the first pay-



ment, a satisfactory bond, guaranteeing the payment of all deferred installments prior to the date of their and each of their default, and guaranteeing, further, the payment of penalties and court costs in the event of default. Such bond may cover a period of one, three or five years, but if for more than one year the bond shall be a surety bond.

Whether the premium is paid in full or in installments the first payment shall be in default one month from the date of the pay-in-order, and subsequent installments shall be in default, respectively, in case of semi-annual payments, six months from the date of the pay-in-order; and in case of quarterly payments, three months, six months, and nine months from the date of the pay-in-order.

Whenever any employer defaults in the payment of any premium, or any installment thereof, or in the filing of any bond herein required, penalties shall attach as follows: Three dollars (\$3.00) for the first fifteen (15) days of default; five dollars (\$5.00) for the next fifteen (15) days of default; and one (1) per cent of the premium but not less than two dollars (\$2.00) for each thirty (30) days of default thereafter.

Within twenty (20) days after any such default the Bureau shall cause suit to be brought for the collection of the premium and accrued penalties, together with further accruing penalties, in the courts of Burleigh County, North Dakota, or in the courts of any county in which such employer is engaged in business; and, in such suits, it shall be unnecessary to comply with the provisions of Chapter 38 of the Session Laws of North Dakota for the year 1921, and acts amendatory thereof, known as the Conciliation Law.

The payment of any judgment rendered in any such action, or the voluntary payment of the amount of premium, penalties and costs prior to judgment, shall entitle the employer, and the employees of such employer, to the benefits of the act from the date of such pay-in-order. If the judgment cannot be paid in full, the Bureau shall determine the date upon which the right of the employees to participate in the Fund shall cease.

Any judgment obtained in any action under this act shall be a prior lien over all other judgments and liens, except those in existence prior to the original enactment of this provision, and cases arising under this section shall have precedence over all other civil cases.

This act shall not operate retrospectively, and all rights and liabilities and causes of action that had accrued to the date on which this law became effective shall be governed by the law in force at the time the rights or obligations in controversy arose.

If the defendant is a non-resident of North Dakota, or a foreign corporation doing business in the State, service of summons may be made upon any agent, representative or foreman

of said defendant within the State, or service may be made in any other manner designated by law.

In any action the remedies of garnishment or attachment, or both, shall be available, and no exemptions except absolute exemptions shall be allowed against any levy under execution pursuant to judgment recovered in such action.

§ 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1931.

## RESOLUTIONS

(Concurrent Resolution G—State Affairs Committee.)

### APPRECIATION OF SYMPATHY AND CONDOLENCE EXPRESSED BY 22ND LEGISLATIVE ASSEMBLY STATE OF SOUTH DAKOTA

*To the Senate and House of Representatives of the State of South Dakota, and to the Honorable O. K. Whitney, President of the Senate, and Honorable B. M. McVeigh, Speaker:*

WHEREAS, Resolutions of sympathy and condolence have been received from the Twenty-second Legislative Assembly of the State of South Dakota, relative to the loss of our State Capitol building, which building prior to statehood was also the seat of government for Dakota Territory, comprising the area now making up our two sister states; and

WHEREAS, Many past memories were associated with this old state house, common to the people of both South Dakota and North Dakota; and

WHEREAS, These bonds of friendship evidenced throughout the past years in exceptional uniformity of law and co-operative effort; and

WHEREAS, Your said resolution further links us together in bonds of love and friendship;

NOW, THEREFORE, BE IT RESOLVED, That we express our sincere thanks and appreciation for the kindly sympathy extended, and are most pleased to inform the Twenty-second Legislative Assembly of the State of South Dakota that the loss sustained was reasonably well covered with insurance; and that with a fund heretofore provided, a new Capitol building entirely adequate to our needs can be constructed without additional levies or the issuance of bonds; also that the records, at first believed destroyed, were largely recovered, so that with the kind offer of your State to permit the taking of duplicates of territorial records, we will be enabled to entirely preserve these historic memories for the coming generations, for which offer and kindness we are sincerely grateful; and

BE IT FURTHER RESOLVED, That a certified copy of this Concurrent Resolution be forwarded to the Governor of the State of

South Dakota, the Secretary of State, President of the Senate, and Speaker of the House of Representatives.

Filed February 14, 1931.

(Joint Resolution—Introduced by Senator Frank Hyland and Duly Adopted by the Joint Assembly of the North Dakota Legislature on February 12th, 1931.)

#### 21ST ANNIVERSARY BOY SCOUTS OF AMERICA

This week, when we commemorate the one hundred twenty-second anniversary of the birth of Abraham Lincoln, we also commemorate the twenty-first anniversary of the founding of the Boy Scouts of America.

I move you, Mr. President, that this joint Assembly extend to the Boy Scouts of America its hearty congratulations upon having arrived at the age of majority; that North Dakota welcomes among its citizens of tomorrow those who now are members of the various Scout troops throughout this Commonwealth; I move you further that the presiding officers of the Senate and House of Representatives be charged with the duty of conveying these sentiments to the proper officers of the Boy Scouts of America in a document to be signed by the Governor, by the presiding officers of the Senate and House of Representatives, and by the Secretary of State, and that the Great Seal of the State of North Dakota be affixed thereto.

Filed February 19, 1931.

(Concurrent Resolution I.9—Craig.)

#### BUDGET

WHEREAS, It is the opinion of the members of this House that catalogs and budget reports from the various institutions of the state will be much easier to intelligently consider if items are uniform; and

WHEREAS, Many of these catalogs and reports fail to give complete data;

*Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

That all budget requests and budget reports be made to contain an itemized statement of deductions under "Interest and Income Deducted" showing amounts and sources from which obtained, as their estimate of total deductions for the coming biennium, together with the figures upon which these estimates are based; and

BE IT FURTHER RESOLVED, That in the case of educational institutions the following items be listed in each and every case:

1. Enrollment of individual students by curricula.
2. A statement of actual individual resident attendance for each year, by terms, of those taking special courses.

3. A statement of average individual resident attendance for the biennium.

4. A statement of average individual resident attendance for the preceding biennium.

Filed March 4th, 1931.

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(Concurrent Resolution J.10—Burns, Hausmann, Aljets, Timm.)

#### CONVICT LABOR

A Concurrent Resolution relating to the use of Convict Labor by the State of North Dakota by the Board of Administration and the Warden and Superintendent of Penal Institutions.

*Be It Resolved by the House of Representatives, the Senate Concurring:*

WHEREAS, It appears that there is no well defined policy on the part of the State Board of Administration, the Warden of the State Penitentiary and the Superintendent of the State Training School with respect to the use of convict labor in or outside of the State Penitentiary and the State Training School;

NOW, THEREFORE, BE IT RESOLVED By the House of Representatives of the State of North Dakota, the Senate concurring, that the Board of Administration, the Warden of the State Penitentiary, the Superintendent of the State Training School are hereby requested not to permit, authorize or require, except in case of emergency, any inmate of the institution of which he or they have control to engage in any form of labor outside of the said institution of which he or they are inmates, which work or labor, by reason of its nature, deprives a person, not an inmate of such institution, of employment, or which would be in competition with persons working for wages; provided, however, that nothing in this resolution shall be construed as being opposed to the inmates of the Penitentiary at Bismarck, and the State Training School of Mandan from engaging in any work outside of said institution, which work is connected with and is for the benefit of such institutions or constitutes a part of the maintenance or upkeep thereof; or from engaging in any upkeep work on the grounds of the State Capitol.

Filed March 4, 1931.

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(Senate Resolution C—Hamilton and Atkins.)

#### URGING PASSAGE OF FARMERS RELIEF BILL

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring, That:*

WHEREAS, During the World War and at the time that the price-fixing act of Congress became effective and was put in operation No. 1 Northern wheat was selling as high as \$3.49 per bushel

in Minneapolis, and other agricultural products were selling accordingly; and

WHEREAS, The minimum price of \$2.17 per bushel for No. 1 Northern wheat at Minneapolis fixed by Congress, was in fact made the maximum price; and

WHEREAS, During this time No. 1 Northern wheat was selling at an average price of \$4.41 per bushel in the allied governments; and

WHEREAS, During the War the price on all other commodities used by the farmer in connection with agriculture, together with freight and transportation rates, were increased by leaps and bounds, and these prices were for a long time, and many of them still are maintained on such commodities, and especially is it true of freight and transportation rates; and

WHEREAS, A large part of the agricultural indebtedness was created during the time that the price of agricultural products was considerably higher than at present, and then during the period of inflation of our currency; and

WHEREAS, The farmer during the period of deflation was made the shock-absorber, so that now it takes approximately 6,220 bushels of wheat to pay an indebtedness that could have been paid with 1,000 bushels prior to the price fixing and the deflation periods; and

WHEREAS, As a result of these conditions thousands and hundreds of thousands of once prosperous farmers in this state and nation have lost their homes and their all by mortgage foreclosures; and

WHEREAS, The price of agricultural products during the present year have in fact been below the cost of production; and

WHEREAS, There is no adequate way of refinancing existing agricultural indebtedness and the farmers are at the mercy of their mortgagees and creditors throughout this state and nation; and

WHEREAS, Unless immediate relief is given thousands and hundreds of thousands additional farmers will lose their farms and their homes and millions more will be forced into our cities and villages, and the army of unemployed will necessarily increase to alarming proportions;

NOW THEREFORE, The Legislative Assembly of the State of North Dakota respectfully petitions the Congress of the United States of America to pass Senate Bill 5109 known as the "Farmers Farm Relief Bill" in order that the agricultural indebtedness of this state and nation may be speedily liquidated and refinanced and agriculture saved from utter ruin and destruction.

The farmers ask for no charity—they simply ask "that American Agriculture be placed on a basis of equality with other industries." They ask that the Federal Reserve system be made to function for them, as it is functioning for other industries. Since the Federal Reserve Bank is now loaning Federal Reserve notes to New York banks at 2% interest—and since our government refinanced the foreign nations to the extent of fifteen billion dollars

at less than 2% interest—we feel that this bill asks nothing but simply justice and a square deal for Agriculture. As a nation we have protected industries by tariff laws for generations, and we feel that the farmer is now entitled to first consideration at the hands of Congress.

BE IT FURTHER RESOLVED, That sufficient copies of this resolution be printed and the Secretary of the State requested to mail a copy to the President of the United States and the President of the Senate of the United States, with the request that the resolution be read from the desk, and a copy to the Speaker of the House of Representatives of the United States, with the request that the resolution be read from the desk; and a copy to the Governor of all of the states in this Union, and a copy to the president of the Senate of all of the states in the Union, with the request that it be read from the desk, also a copy to be mailed to the Speaker of the House of Representatives of all of the states in this Union, with the request that it be read from the desk.

Filed February 17, 1931.

(Concurrent Resolution L.12—Smith and Swett.)

#### GREAT LAKES-ST. LAWRENCE WATERWAY

WHEREAS, Economic authorities in the United States and Canada, acting officially both as Joint Commissions and severally, have repeatedly and unanimously declared that enlarging the connecting channels of the Great Lakes and St. Lawrence River to admit uninterrupted movement by ocean steamers from and into the Great Lakes, is economically sound and necessary to raise the competitive position, establish equality, permit future development and effect the return of prosperity to the vast continental areas of both countris, and

WHEREAS, During the past five years diplomatic correspondence has brought the two nations into agreement on the assignment of tasks and division of costs, said correspondnce having allocated to the United States the construction and cost of all improvements in international waters—which includes the deepening to 27 feet of the connecting channels of the upper Great Lakes, a new lock at the Soo corresponding in dimensions to the locks in the New Welland Ship Canal and the improvement of the international stretch of the St. Lawrence River from Lake Ontario to the 45th parallel (opposite Cornwall), where the river ceases to form the boundary line between the two countries, and allocating to Canada the completion of the New Welland Ship Canal and the improvement of the river from the 45th parallel aforesaid to the sea, and

WHEREAS, Approximately one-half of the tasks assigned to each Government has either been completed, is in process of completion or already authorized by one or other of the two Governments, and approximately one-half of the total cost of the through

Seaway has either been expended, in process of being expended or involved in authorizations already made, all of which has been carried out and is capable of being completed without any treaty, and

WHEREAS, Engineering authorities in Canada and the United States, acting officially both as Joint Boards and severally, have agreed upon engineering plans and costs and unanimously declared that the International Rapids (48 miles) of the St. Lawrence River, extending from Ogdensburg to the International Boundary must, for economic reasons, be developed for navigation and power jointly by the United States and Canada, and

WHEREAS, The State of New York, with the clear intent of delaying or obviating the completion of a through Seaway, via the St. Lawrence, and advancing a deep water route across the State of New York by way of the Erie and Oswego Barge Canals, has caused to be prepared engineering plans, which if permitted to be carried out, will under the most favorable conditions postpone navigation development for many years, and in the meantime afford New York opportunity to transfer its barge canals to the Federal Government, and embark the Government upon the staggering expense of deepening or widening them for the passage of lake ships down to the port of New York for transfer to the ocean carrier, but not admitting the ocean ship to the Great Lakes, thus denying to mid-continental areas direct access to the sea, and

WHEREAS, No development of this International Rapids section of the St. Lawrence River can be undertaken by either country or any agency in either country without an agreement or treaty appropriate thereto having first been entered into between Canada and the United States, and

WHEREAS, The landlocked interior of the United States is deeply concerned and in emergent need of the relief which would accrue to that area by the opening of such Seaway and the citizens of New York State also are directly interested in the improvement and early utilization of the large reservoir of cheap power which would be made available by such joint development, and

WHEREAS, The need exists for a plan that will effect the development of this section of the river for navigation and power at the earliest possible date, by employing the most practical, the most expeditious and best agency or agencies for that purpose,

THEREFORE, BE IT RESOLVED, By the House of Representatives, the Senate concurring, that the President of the United States be and is hereby memorialized to proceed to a treaty with Canada for the development of the aforesaid International Rapids section of the St. Lawrence River at the earliest possible date and in accordance with the plans agreed upon by the International Joint Board of Engineers, or such amendment to or changes in said plans as may be subsequently adopted by such Joint Board, and

BE IT FURTHER RESOLVED, That the Congress of the United States be and is hereby memorialized to enact the necessary pre-

liminary legislation declaring all lands and the entire flow of the St. Lawrence River, extending from the shore to the international boundary line in the river, from Lake Ontario to the 45th parallel, where the river ceases to form the boundary between the nations, necessary for the purposes of navigation of said waters and the waters connected therewith, and

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to the President of the United States and to the Senate and House of Representatives of the United States.

Filed March 4, 1931.

(Senate Resolution D—Stucke.)

URGING PASSAGE OF SENATE JOINT RESOLUTION 226 AND  
HOUSE JOINT RESOLUTION 454

*Be It Resolved by the Senate of the State of North Dakota, That:*

WHEREAS, The United States Court of Claims in Docket numbered B-449 entitled "The Indians of the Fort Berthold Indian Reservation in the State of North Dakota, comprising the tribes known as the Arickarees, the Gros Ventres, and the Mandans, and the individual members thereof, versus The United States," has rendered final judgment in favor of the Fort Berthold Indians in the State of North Dakota, and

WHEREAS, The Hon. Lynn J. Frazier, United States Senator from the State of North Dakota, has introduced in the 71st Congress, Joint Resolution 226 which provides for the authorization of the Secretary of the Interior to distribute the amount awarded the said Fort Berthold Indians in the Judgment rendered by the Court of Claims of the United States, and

WHEREAS, The Hon. J. H. Sinclair, representing the Third Congressional District of the State of North Dakota, has introduced in the House of Representatives of the United States, Joint Resolution 454, dealing with the same subject, and

WHEREAS, We deem it for the best interests of the Indians of the Fort Berthold Indian Reservation of the State of North Dakota that the Secretary of the Interior of the United States do withdraw from the Treasury of the United States, funds on deposit arising from the said final judgments in accordance with the said joint resolutions;

THHEREFORE, BE IT HEREBY RESOLVED, By the Senate of the State of North Dakota, that we most respectfully urge upon *The Congress of the United States*, the early enactment of Senate Joint Resolution 226 and House Joint Resolution 454.

AND BE IT FURTHER RESOLVED, That the Secretary of State of the State of North Dakota, be and is hereby authorized and instructed to forward a duly authenticated copy of this resolution to the President of the United States Senate, the Speaker of the House



of Representatives, and to each Senator and Representative in Congress from the State of North Dakota.

Filed February 10, 1931.

Concurrent Resolution D.4—Committee on House State Affairs.)

**COLORING OF OLEOMARGARINE BY USE OF PALM OIL**

WHEREAS, Under a ruling of the United States Commissioner of Internal Revenue, palm oil may now be used in the manufacture of oleomargarine to give it the color of butter without making such product subject to the tax on colored oleomargarine; and

WHEREAS, This practically nullifies the protection which the dairymen of this country have enjoyed since 1902 in the law taxing colored oleomargarine ten cents per pound; and

WHEREAS, The effect of this ruling has been to greatly increase the manufacture and sale of oleomargarine and similar butter substitutes despite the present very low price of butter; and

WHEREAS, The coloring of oleomargarine to resemble butter constitutes a fraud upon the consuming public of the country;

THEREFORE, BE IT RESOLVED, By the House of Representatives, the Senate concurring:

That the Twenty-second Legislative Assembly of the State of North Dakota hereby protests against the ruling permitting oleomargarine and similar butter substitutes to be colored like butter through the use of palm oil without making these products subject to the ten cent tax on colored oleomargarine, and respectfully requests the United States Commissioner of Internal Revenue to reverse his ruling, in the interests of the great dairy industry of this country and fair dealing with consumers.

BE IT FURTHER RESOLVED, That in the event that the United States Commissioner of Internal Revenue shall not promptly reverse his ruling allowing palm oil to be used in the manufacture of oleomargarine and similar butter substitutes without making the product subject to the tax on colored oleomargarine, the Congress of the United States is respectfully requested to enact legislation either prohibiting the use of palm oil in the manufacture of oleomargarine or making any product manufactured with palm oil subject to the tax on colored oleomargarine.

BE IT FURTHER RESOLVED, That properly attested copies of this resolution be transmitted to the Commissioner of Internal Revenue, the Secretary of the Treasury, the presiding officers of both Houses of the Congress of the United States, and to each North Dakota member thereof.

Filed March 2, 1931.

(Senate Resolution H—Ployhar.)

**OPPOSING EMBARGO ON CRUDE PETROLEUM, ETC.**

**Resolution memorializing the Congress of the United States to refrain from enacting a law placing a tariff or embargo on crude petroleum and the refined products thereof.**

WHEREAS, Certain oil producers from the petroleum producing states are urging the Congress of the United States to enact a law placing a tariff or an embargo on petroleum and its refined products, claiming that such a measure is necessary as a relief measure to the petroleum producing industries in these states, and,

WHEREAS, Such a tax would place an additional burden on a product already heavily taxed by excise and sale taxes, in addition to general property and production taxes, and,

WHEREAS, The tariff as proposed would place an additional burden of over three hundred fifty million dollars (\$350,000,000) on said product which must be borne and paid by all owners of automobiles, trucks and farm tractors, by increasing the selling price of gasoline and kerosene from one to five cents per gallon, and such tariff would benefit but comparatively few citizens, and,

WHEREAS, Only four or five states of the United States produce oil to any considerable extent, and only a few of the citizens of such states, comprising but a small proportion of the population of the United States, would benefit thereby, and,

WHEREAS, Petroleum and its refined products are necessary in order to carry on farming, trade and commerce, and,

WHEREAS, The condition as now exists in the petroleum industry is only temporary and no more serious than conditions existing in other classes of business, and,

WHEREAS, It has been a well settled policy for the past decade, both by petroleum producers and the government, to conserve our petroleum deposits, and,

WHEREAS, An embargo or tariff would result in hastening the depletion of our petroleum deposits,

BE IT RESOLVED, By the Senate of the State of North Dakota, that the Congress of the United States be memorialized to refrain from enacting any laws imposing a tariff or embargo on petroleum products, or the refined products thereof, and,

BE IT FURTHER RESOLVED, That the Secretary of State be instructed to forward duly authenticated copies of this Resolution to both United States Senators from the State of North Dakota at Washington, and the members of the House of Representatives from the State of North Dakota, to the President of the Senate of the United States, to the Speaker of the House of Representatives at Washington, and to the President of the United States.

Filed February 14, 1931.

(Concurrent Resolution M.13—Van Berkom.)

**LEGISLATIVE ROLL CALL SYSTEMS**

Electric or automatic roll call systems for Legislative Chambers in new Capitol Building.

*Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

THAT, WHEREAS, This Twenty-second Legislative Assembly of the State of North Dakota has authorized the construction of a new Capitol Building to replace that recently destroyed by fire, and this Assembly has by law created a Board of Capitol Commissioners to erect and complete such structure; and

WHEREAS, This Legislative Assembly has had exhibited to it one of the several electrically operated roll call systems now upon the market;

THEREFORE, This Assembly hereby suggests to such Board of Capitol Commissioners to be hereafter appointed, that it investigate the several systems of electric or automatic roll calls, for the purpose of determining whether one of the same should not be installed in the House and in the Senate of the Capitol Building to be by them erected; or whether such building should not as constructed, be wired for the future installment of some automatic or electrically operated roll call system for both the Senate and the House.

Filed March 10, 1931.

(Concurrent Resolution B.2—Holte and Erickson of Kidder.)

**CONVERSION WORLD WAR VETERANS ADJUSTED  
COMPENSATION CERTIFICATES**

Requesting the Congress of the United States to enact legislation to provide for the immediate conversion into cash of World War Veterans' Adjusted Compensation Certificates.

*Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

WHEREAS, A general economic depression producing a depreciation in the value of all commodities, a stagnation of business, an aggravated condition of unemployment and serious individual suffering, now exists in the State of North Dakota and throughout the whole nation; and,

WHEREAS, There are now pending before the Congress of the United States certain measures, the purpose of which is to alleviate in some degree the existing distressing conditions, by providing for the immediate conversion into cash of World War Veterans' Adjusted Compensation Certificates; and,

WHEREAS, The American Legion, Department of North Dakota, has just completed a poll among the twenty thousand World War veterans resident in this state which conclusively demonstrates that such veterans almost unanimously favor the enactment by the Congress of the measure providing for the immediate payment, upon

application, of the full face value of such Adjusted Compensation Certificates; and,

WHEREAS, The passage of such legislation would bring immediate relief to thousands of veterans and their dependents who are now in need, create new markets, instill new life into American business, and be a well deserved demonstration of the gratitude of the nation to those who carried its arms in 1917 and 1918;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives of the State of North Dakota, the Senate concurring, most respectfully urge upon the Congress of the United States, the early enactment of legislation providing for the immediate payment, upon application, of the full face value of such Adjusted Compensation Certificates.

AND BE IT FURTHER RESOLVED, That the Secretary of State of the State of North Dakota be and is hereby instructed to forward a duly authenticated copy of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives and to each Representative of the State of North Dakota in the United States Senate and House of Representatives.

Filed February 14, 1931.

## VETOES

(S. B. No. 185—Renauld.)

### COLLECTION DELINQUENT PERSONAL PROPERTY TAXES

An Act to amend and re-enact Section 2173 of the Compiled Laws of North Dakota for the year 1913 authorizing the Board of County Commissioners to contract with the Sheriff to pay him for the collection of personal property taxes that have been delinquent for more than one year a percentage of such personal property taxes in lieu of mileage, providing for the appointment of special deputy sheriffs for the collecting of such taxes, providing for the publication of such contract with the Sheriff.

V E T O

March 14, 1931.

To the Honorable Secretary of State:

I return herewith Senate Bill No. 185 without my approval for the following reasons:

The present law, which this bill amends (Section 2173, C. L. 1913), authorizes the Board of County Commissioners to contract with the Sheriff to collect delinquent personal property taxes on a percentage basis in lieu of, or in addition to his compensation provided by law. Senate Bill No. 185 would amend this statute to provide that any Sheriff who has received such contract, may employ one or more special deputies to collect such personal property taxes and be paid for his services under the percentage contract held by

the Sheriff, provided that such percentage compensation must be in lieu of mileage otherwise allowed by law.

The duty of collecting delinquent personal property taxes is a regular official duty now devolving upon the Sheriff by law for the performance of which he is entitled to receive the usual compensation provided by law. It is a responsibility which calls for tact and diligence on the part of the Sheriff. I do not think it would be wise to permit this responsibility to be delegated to special deputies to act as tax collectors on a percentage basis, and it is questionable whether the county would profit by such arrangement. In any event, I feel that the proposed bill is not an improvement on the present law.

Respectfully yours,

GEO. F. SHAFER,

Governor.

GFS:E

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

§ 1. AMENDMENT.] That Section 2173 of the Compiled Laws for the year 1913 is hereby amended and re-enacted to read as follows:

§ 2173. In any county where, for any reason, personal property taxes that have been delinquent more than one (1) year remain unpaid or uncanceled, the Board of County Commissioners of such County may at any regular meeting of the Board contract with the Sheriff to pay him a percentage of such delinquent personal property taxes as compensation for collecting the same in lieu of the mileage allowed him under the provisions of Section 3521 of the Supplement to the Compiled Laws of 1913, or acts amendatory thereof; and the Sheriff is hereby authorized with the consent and approval of the Board, to employ one or more special deputies for the purpose of collecting such taxes; provided, that the compensation of such special deputies shall be paid out of the percentage of taxes collected and allowed the Sheriff under the provisions of such contract. Such contract shall be published in full in the minutes of the meeting of the Board, and copies of such contract and tax list shall be mailed by the County Auditor to the Tax Commissioner and shall be by him kept on file. The expenses of collecting delinquent personal property taxes under the provisions of this section shall be paid pro rata by the state, county, city, village, township or school district out of the taxes collected in proportion to their interest therein.

Filed March 14, 1931.

(H. B. No. 307—Smith and Wilson.)

**HAIL INSURANCE DEPARTMENT BUDGET**

An Act to amend and re-enact Section 189b3 of the Supplement to the Compiled Laws of 1913, relating to the appointment of a manager, an assistant manager and other necessary employees of the State Hail Insurance Department; fixing the compensation of such manager and assistant manager and placing the State Hail Insurance Department on a budgetary basis.

V E T O

March 14, 1931.

To the Honorable Secretary of State:

I herewith file House Bill No. 307 without my approval.

The purpose of this measure is the placing of the Hail Insurance Department under the provisions of the State Budget Law and requiring the Legislature to make biennial appropriations for the operating expenses of that Department. The State Hail Insurance law now authorizes the expenditure of not to exceed \$176,000 annually, payable from hail insurance funds only, for operating expenses of the Department.

Under the Budget Law, each department, board and institution of the state supported in whole or in part by appropriations from the State Treasury (Section 710a3, Supplement to the Compiled Laws N. D., 1913) is required to submit to the State Budget Board not later than August 1st of the year preceding a Legislative Session, a request containing an itemized statement of the estimated amount of money required to operate and maintain such department or institution during the ensuing biennium. The report of the Budget Board thereon is intended to serve as a guide to the Legislature in making appropriations from the State Treasury, in order that the Legislature may more intelligently distribute the available revenues of the State among the several state departments and state institutions, and to prevent unnecessary or extravagant appropriations.

Inasmuch as the State Hail Insurance Department is not supported in whole or in part from the State Treasury, or by general taxation, but from hail insurance premiums exclusively, there is no object to be served in requiring its annual expenses to come under the Budget Law, or to be made a matter of biennial legislative appropriation. How much or how little its operating expenses may be each year in no way affects the general funds of the state or the state tax levy.

Then too, the total operating expenses of this department fluctuates considerably from year to year, depending upon the number of hail claims filed each year. Its total operating expenses have varied from \$128,000 to \$200,000 in different years according to the volume of hail claims received. It would, I believe, be difficult, if not impossible, for either the Budget Board or the Legislature to estimate the probable required operating expenses of this Department for a period of two years ahead, and the Legislature would

of necessity be obliged to permit considerable leeway to take care of seasonal fluctuations. This necessity would defeat any purpose of economy intended to be accomplished by the Budget Law.

In my opinion, no useful purpose will be served by this bill, while its enactment would, I believe, cause inconvenience to the Department in the orderly conduct of its business.

Respectfully yours,

GEO. F. SHAFER,

Governor.

GFS:E

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

§ 1. AMENDMENT.] That Section 189b3 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 189b3. The Commissioner of Insurance shall have authority to employ all necessary assistance, to provide for and furnish all necessary supplies, to appoint, subject to the approval of the Governor, a manager whose salary shall not exceed forty-two hundred dollars (\$4,200.00) per annum, an assistant manager whose salary shall not exceed twenty-nine hundred forty dollars (\$2,940.00) per annum, and as many adjusters and assistants as may be necessary to adjust all claims for losses from hail. The Commissioner of Insurance shall designate the duties and fix the compensation of all such employees and may remove any or all of them with or without cause. Such compensation together with all other expenditures for the operation and maintenance of the Hail Insurance Department shall remain within the appropriation made available in each biennium for such purposes except as provided by Sections 189b16 and 189b17 of the Supplement to the Compiled Laws of 1913 and acts amendatory thereto. The Commissioner of Insurance shall out of the operating fund herein provided for, pay all salaries and expenses of the Department by voucher issued by him and approved by the State Auditing Board.

There is hereby appropriated out of the hail indemnity levy made in the year 1931, the sum of one hundred seventy-five thousand dollars (\$175,000.00) and a like sum out of the hail indemnity levy made in the year 1932, for the purpose of operating and maintaining the said Hail Department for the next succeeding year in which said indemnity levy is made.

Provided further, that each Legislative Session shall appropriate out of the Hail Insurance Fund into the Hail Insurance Operating Fund which is hereby created a sum sufficient to provide for the operation and maintenance of the Hail Insurance Department for the next biennium. Provided further, that in the case of the Hail Insurance Department, such biennium shall commence on January 1st of each even numbered year.

No appropriation is made to operate said Department for the year 1931 for the reason that one hundred seventy-six thousand dollars (\$176,000.00) (more than a sufficient amount) has been appropriated out of the indemnity levy made in the year 1930. Provided further that not later than August first of each year next preceding the session of the Legislative Assembly, the State Auditor shall send to the manager of the State Hail Insurance Department, a suitable blank form to be filled out by the said manager, with an itemized statement of the amount of money which said manager considers necessary for the proper maintenance and operation of his Department, during the two fiscal years next ensuing. The said manager shall return said blanks, properly filled out, on or before the first day of October of each year next preceding the session of the Legislative Assembly, to the State Auditor together with such data and statements as may be necessary to fully and clearly explain the purposes and need of any appropriation which is requested by the said manager of the Hail Department; it being the intent and purpose of this Section to place the State Hail Insurance Department upon a budgetary basis in the same manner as required of state officers, bureaus, boards, departments and commissions by Section 710a3 of the Supplement to the Compiled Laws of 1913.

Filed March 16th, 1931.

(H. B. No. 210—Cox by Request.)

**JUDICIAL REVIEW FINDINGS AND DECISIONS WORKMEN'S  
COMPENSATION BUREAU**

An Act to amend and re-enact Section 17 of Chapter 162 of the Session Laws of North Dakota for the year 1919, known as the Workmen's Compensation Act.

V E T O

March 17, 1931.

To the Honorable Secretary of State:

I file herewith House Bill No. 210 without my approval.

In its original form, this bill provided for a judicial review of the findings and decisions of the Workmen's Compensation Bureau and further provided that the findings of fact and decisions of the Bureau should have the same force and effect as the findings of fact and conclusions of law of the District Court in trials without a jury. In the course of the passage of this measure, however, there was added thereto an amendment, which not only changes the original purpose of this measure, but as enacted, leaves its provisions repugnant and contradictory. The bill contains language providing that the findings of fact and decisions of the Bureau shall have the same force and effect as the findings of fact and conclusions of law of the District Court, and at the same time it contains contradictory language to the effect that upon an appeal from a decision of the Bureau



to the District Court, the action upon the appeal shall be tried "de novo" as in the case of other civil actions. Obviously, the Courts cannot give effect to these conflicting provisions.

The bill, as amended, also provides that the allowance of doctors, hospital and medical expenses, not including "substantial awards" shall be construed as a denial of the claimant's right to participate in the fund. The term "substantial awards" is not defined, and as used in this bill, is ambiguous and certain to lead to difficulties in construction and application.

On the whole, I am of the opinion that this bill does not clarify or improve the present procedure, but does introduce further complications and uncertainty.

Respectfully yours,  
GEO. F. SHAFER,  
Governor.

GFS:E

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

§ 1. AMENDMENT.] That Section 17 of Chapter 162 of the Session Laws of North Dakota for the year 1919, be amended and re-enacted to read as follows:

§ 17. REVIEW.] The Bureau shall have full power and authority to hear and determine all questions within its jurisdiction, and its findings of fact and decisions shall have the same force and effect as the findings of fact and conclusions of law of the District Courts of this State in trials without a jury, and its decisions and findings shall be final; provided, however, that in case the action of the Bureau denies the right of the claimant to participate in the fund upon any ground going to the basis of claimant's right, provided that the allowance of doctors, hospital and medical expenses not including substantial awards to the claimant shall be construed a denial of the claimant's right to participate, then the claimant within 30 days after notice of such action of the Bureau shall have been served upon him by registered mail, may offer such further evidence by affidavit, deposition, or oral testimony before the Bureau as may have been omitted on the first hearing; whereupon the Bureau shall make new findings and a new order amending or refusing to amend its findings of fact, and if justified and required by such additional evidence, altering, modifying or reversing its prior decision, and if said new order still denies the right of the claimant to participate in the fund upon any basic ground, such claimant, within 30 days after notice of such final action shall have been served upon him by registered mail, may appeal to the District Court of the County where such injury was received or, if without the State, then to the District Court of any county in the state, and said action to be there tried de novo as in the case of other civil actions. Upon the filing of such notice for appeal the Bureau shall within

twenty days transmit to such District Court the original record made in such matter, including all notations made by the Commissioners; and said District Court shall pass upon the matter submitted, together with such further evidence as shall be desired, and the Court having fully heard and tried said action the Court shall make its order and decision, remanding the record back to the Bureau with its directions. Certified copies may be used in place of the original records. The cost and expenses of the proceedings upon appeal, including a reasonable attorney fee to be fixed by the Court in favor of a successful claimant, shall be taxed against the Bureau; and either party shall have the right to appeal to the Supreme Court of North Dakota as in ordinary civil actions triable de novo; provided, however, that no appeal shall lie from a decision entered under the continuing jurisdiction of the Bureau as outlined in Section 18 of this act excepting where the Bureau shall for the first time deny the right of claimant to participate in the fund.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Filed March 17, 1931.

(H. B. No. 148—Svingen and Crockett.)

#### MANUFACTURE COFFINS AT PENITENTIARY

An Act authorizing and directing the State Board of Administration and the Warden of the Penitentiary to engage in manufacturing of coffins at the State Penitentiary to furnish employment to the inmates thereof.

VETO

March 17, 1931.

To the Honorable Secretary of State:

I file herewith House Bill No. 148 without my approval.

This bill authorizes, empowers and directs the State Board of Administration and the Warden of the Penitentiary to employ the inmates of the State Penitentiary in the manufacture of coffins. It requires these officials to provide the necessary equipment, material and supplies for the manufacture of coffins and authorizes the sale and distribution of them both on a wholesale and retail basis.

No appropriation, however, is provided to enable the Board of Administration and Warden to carry out the provisions of this Act, and it is, therefore, impossible to establish this industry. The business of manufacturing coffins involves, not only special equipment, but a good deal of special material and supplies, much of which is expensive, and it would involve a considerable investment in capital to establish and operate the business. It is also a highly specialized industry, requiring the employment of considerable skilled labor for the manufacture of all coffins, except those used for the burial of paupers. It is doubtful whether there would be any market at all for

the sale of ordinary coffins within the State of North Dakota manufactured by prison labor, and it is certain that the demand for pauper coffins would be small, indeed.

The feasibility of launching the State Penitentiary into this special industrial activity is so doubtful that I feel the decision to do so should be deferred until a more careful and thorough investigation can be made and until the Legislature has at the same time made adequate appropriations for the establishment thereof.

Respectfully yours,

GEO. F. SHAFER,

Governor.

GFS:E

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

§ 1. The State Board of Administration and the Warden of the State Penitentiary under the direction of the said Board, is hereby empowered, authorized and directed to employ inmates of the State Penitentiary in the manufacture of coffins. They shall provide the necessary equipment for the manufacture of such coffins and shall provide such material and supplies, and inmate labor sufficient to carry out the provisions of this Act. They may in their discretion manufacture or buy and assemble such parts of such coffins, as handles, buttons and plates or other incidentals, as may be deemed advisable or necessary. They shall make rules and regulations governing the manufacture, sale and distribution of coffins so manufactured and shall keep a separate set of books for keeping track of and recording the account pertaining thereto.

§ 2. The Board of Administration shall fix and establish the wholesale and retail price of such coffins; provided, however, that coffins ordered or purchased by the State, and County or Municipality of the State for the burial of paupers by the State, County or Municipality, shall be sold at cost of manufacture.

§ 3. The funds and the profits that may accrue therefrom shall be kept separate and distinct and not intermingled with other funds of the State Penitentiary and shall not be transferred except by authority of law.

§ 4. The Board of Administration shall so far as compatible with the efficient business of manufacturing coffins, make use of any inmates and employees of the State Penitentiary.

§ 5. All Acts and parts of Acts in conflict herewith are hereby repealed.

§ 6. EMERGENCY.] This Act is hereby declared to be an emergency and shall take effect and be in force from and after its passage and approval.

Filed March 17, 1931.

March 14, 1931.

VETO

To the Honorable Secretary of State:

I herewith file House Bill No. 3 without my approval.

This measure reduces the mileage allowed Sheriffs and Deputies for travel upon official business by motor vehicle or team from 20¢ per mile to 16¢ per mile, and for travel by rail from 10¢ per mile to 8¢ per mile. I feel that this reduction is unjust to the Sheriffs and their Deputies under existing travel conditions in North Dakota. The Sheriff of each County is the chief peace officer of his County. He is chargeable with the duty of enforcing all the criminal laws and apprehending at all times and under all conditions, all criminal offenders. He, and his Deputies, must travel, under the call of duty, at any time of day or night, during winter and summer. Much of their travel must necessarily be on highways or roads that are unimproved. During each winter, some part of the State is blanketed with heavy snow, blocking the highways for weeks and months at a time, making travel by motor vehicle in those sections impossible and forcing the Sheriff's office to travel by horse drawn vehicles. The expense of travel either by motor vehicle or horse drawn vehicles under those conditions considerably exceed the present mileage allowance.

The proposed bill would impose an extraordinary hardship on Deputy Sheriffs, whose salaries, as limited by law, are now ridiculously low. The law limits the salaries of Deputies to \$100 per month, the chief deputies \$110 per month in all counties the population of which does not exceed 18,000, which includes most of the Counties of the State.

I do not believe that it is either good economy or good policy to discourage peace officers of the State in the performance of their duties by reducing the travel allowance provided below the present rate.

Respectfully yours,  
GEO. F. SHAFER,

Governor.

GFS:E

(H. B. No. 3—Twete.)

**SHERIFF'S MILEAGE**

An Act to amend and re-enact Section 3521 of the 1925 Supplement to the Compiled Laws of the State of North Dakota for the year 1913 relating to Sheriff's mileage.

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

§ 1. AMENDMENT.] Section 3521, of the 1925 Supplement to the Compiled Laws of the State of North Dakota is hereby amended and re-enacted to read as follows:

§ 3521. MILEAGE.] In addition to the salary prescribed by the preceding Section, the Sheriff or his deputy or deputies shall be allowed sixteen cents per mile for each and every mile actually and necessarily traveled in the performance of any of their official duties when such travel is by motor vehicle or by team; and that the Sheriff or his deputy or deputies, shall be allowed eight cents per mile for each and every mile actually and necessarily traveled by rail; Provided, however, that in lieu of such mileage any Sheriff shall be allowed actual expenses only in travel outside of the State on official business; Provided further that the Sheriff or his deputy or deputies shall furnish receipts for all sums paid out in amounts of \$1.00 or over for expenses incurred when traveling outside of the State, and the County Board shall not approve any bills for such expenses unless accompanied by such receipts.

§ 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Vetoed March 14, 1931.

(S. B. No. 118—Ettestad.)

#### TAX LEVY SCHOOL FACILITIES UNORGANIZED TERRITORY

An Act to provide educational facilities for children of school age residing in territory not organized as a school district, under the direction of the Board of County Commissioners of the county in which such children reside; to provide for the levying of taxes by the County Board upon the property in such territory for such purpose; and to make the compulsory attendance law applicable to all persons to whom such facilities are furnished.

VETO

March 17, 1931.

To the Honorable Secretary of State:

I file herewith Senate Bill No. 118 without my approval.

It appears to be the purpose of this measure to vest in the Board of County Commissioners the power to levy taxes in an amount not to exceed fourteen mills on each dollar of the assessed valuation of all taxable property within any territory not organized into or a part of any school district and in which school facilities are not furnished to resident children, and to impose upon such Board the duty and authority to provide school facilities in such unorganized territory, including the duty of paying tuition for the children residing in such unorganized territory attending public schools in other districts, and providing the transportation for such children. This bill to all intents and purposes, organizes all territory not now organized into or constituting a part of any school district into a sort of a special school district and constitutes the Board of County Commissioners as the School Board, for such territory for the purpose of providing school facilities for pupils residing in such unorganized territory.

I do not believe that this is a wise measure. It is quite certain that any territory within the State not now organized into, or constituting a part of any school district, remains in that condition because of sparse population and assessed valuation inadequate to support a school district. That being the case, it is not good policy for the State to force the status and burden of a school district upon such sparsely settled unorganized territory. I feel that it is better to permit the few citizens residing in such unorganized territory to seek school facilities for their children in adjoining school districts and remain free of the school tax burden which this bill, if it were to become a law, would impose on them.

Respectfully yours,

GEO. F. SHAFER,

Governor.

GFS:E

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

§ 1. The Board of County Commissioners of each County in the State in which there may be territory not organized into or a part of any school district and in which school facilities are not furnished to resident children, shall annually levy a tax upon the property in such territory sufficient for the purposes hereinafter enumerated, not to exceed, however, an amount which will be produced by a levy of fourteen mills on each dollar of net taxable assessed valuation thereof.

§ 2. The proceeds of such tax shall be retained by the County Treasurer in a special fund for each separate division of such territory, and shall be disbursed upon the order of the Board of County Commissioners in the same manner as other county funds.

§ 3. The Board of County Commissioners shall have the power and it shall be its duty to administer the funds so produced for the purpose of providing educational facilities, including high school advantages, for the children of the division of unorganized territory where such funds are raised, and to that end it may pay tuition for such children in any of the public schools of this State may pay to the parents of such children as shall attend such schools, fees for the transportation of such pupils to school upon the same basis as such fees may be paid in common school districts, not consolidated, in this State (or such lesser amount as may be necessitated by lack of available funds); may furnish vehicular transportation by public conveyance in the same manner as may be permitted by common school districts in this State, and may furnish board and lodging and other accommodations for such children in another school district; provided that no expenditures shall be made to exceed the funds available for each division of unorganized territory.

§ 4. Each tract of unorganized territory which is separated from any other tract of unorganized territory by property of an

organized school district shall be administered as a separate division of territory, but any single area of land, of whatever size or shape, and not divided by any organized school district territory, shall be administered as a single division.

§ 5. The affairs of such territory shall be administered by the Board of County Commissioners with the object of furnishing to the children of school age residing within such territory school facilities as convenient as may be had, within the limits allowed by the available funds.

§ 6. Whenever the tuition of a child has been so provided for, and transportation fees equal to those payable by common school districts shall be paid as herein provided, the compulsory attendance law shall apply to all children of compulsory school age who reside within six miles of the school at which tuition is provided, and in case tuition and vehicular transportation are furnished, the compulsory attendance law shall apply to all children of compulsory school age to whom such facilities are offered or furnished.

§ 7. Should any of the territory now or hereafter subject to the terms of this Act become organized into a school district, or attached to any school district, any and all funds remaining in the hands of the County Treasurer to the credit of such division of unorganized territory shall be paid to such school district, and if a portion only of the division of unorganized territory shall be so organized or attached, the funds remaining shall be pro-rated upon the basis of the assessed valuation of the several portions of unorganized territory involved.

§ 8. All Acts or parts of Acts in conflict herewith are hereby repealed.

Filed March 12, 1931.

(H. B. No. 299—Committee on Delayed Bills.)

#### TAX LEVY UNORGANIZED TOWNSHIPS

An Act to amend and re-enact Section 9, Chapter 235, Session Laws of North Dakota for 1929.

VETO

March 17, 1931.

To the Honorable Secretary of State:

I file herewith House Bill No. 299 without my approval.

This bill increases both the tax rate and the purposes for which County Commissioners may levy taxes in unorganized townships. Under the present law, Section 9 of Chapter 235, Session Laws of North Dakota for 1929, the Board of County Commissioners have the same jurisdiction in relation to roads and bridges in unorganized parts of counties as township supervisors have in organized townships and may, for road and bridge purposes, levy not to exceed

two mills on the net taxable assessed valuation of such unorganized townships. House Bill No. 299 increases the jurisdiction of the County Commissioners in such unorganized townships to include caring for the poor, and increases the tax rate for such purposes from two mills to four mills.

I do not think it is good policy to increase the jurisdiction of County Commissioners over unorganized townships for any purpose, and particularly not where such increase of jurisdiction involves an increase in property taxes. Only sparsely settled and poorly developed territory in North Dakota now remains unorganized. In most of such unorganized districts, land values are low and the total assessed valuation small. It would be a hardship on the people residing in such unorganized districts to carry the usual township burdens incident to the improvement of highways and bridges and caring for the poor.

Furthermore, I feel that in these times the policy of the State should be exercised in the direction of diminishing and not increasing taxes on personal and real property.

Respectfully yours,  
GEO. F. SHAFER,  
Governor.

GFS:E

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

§ 1. AMENDMENT.] That Section 9, Chapter 235, Session Laws of North Dakota for 1929, is hereby amended and re-enacted to read as follows:

§ 9. UNORGANIZED TOWNSHIP TAX LEVIES.] The Board of County Commissioners shall have the same jurisdiction in relation to roads and bridges, the caring for the poor and in the making of levies and assessments as the township supervisors now have in organized townships and shall have power to make levies for road and bridge purposes, for the care of the poor and for the making of assessments in such unorganized townships to be expended therein. The total tax for all purposes which may be levied by the Board of County Commissioners in such unorganized townships shall not exceed four mills on the dollar of the net taxable assessed valuation of such unorganized townships. Such limitation, however, shall not be construed as limiting the power of the Board of County Commissioners to levy general county taxes for road and bridge purposes in such unorganized territory as may be provided by law.

Filed March 17, 1931.



## CONSTITUTIONAL AMENDMENTS

(Chapter 97—Session Laws 1929)

(Concurrent Resolution)

### ARTICLE 45

#### ELECTION AND TERMS JUDGES DISTRICT COURT

§ 104. The State shall be divided into not less than six judicial districts, in each of which there shall be elected at general elections by the electors thereof one or more judges of the District Court therein as may be provided by law. The term of office of a Judge of the District Court hereafter elected shall be six years from the first Monday in January succeeding his election and he shall hold his office until his successor is duly qualified. At the general election in 1932 there shall be elected as many judges as there are judge-ships to be filled in each Judicial District; the candidate receiving the highest number of votes shall be elected to a term of six years, the candidate receiving the next highest number of votes shall be elected to a term of four years, and in case three judges are to be elected, the candidate receiving the next highest number of votes shall be elected to a term of two years, and thereafter each judge shall be elected to a term of six years.

Approved, June 25, 1930. 83635 to 63316.

(Chapter 98—Session Laws 1929)

(Concurrent Resolution)

### ARTICLE 46

#### ELECTION, TERMS AND COMPENSATION JUDGES SUPREME COURT

§ 90. The judges of the Supreme Court shall be elected by the qualified electors of the State at general elections. The term of office shall be ten years and the judges shall hold their offices until their successors are duly qualified and shall receive such compensation for their services as may be prescribed by law. Provided that this section shall not be applicable to the terms of office of judges of the Supreme Court elected prior to the general election of the year 1934, at which election three Supreme Court Judges shall be chosen; and the candidate at said election receiving the highest number of votes shall be elected for a term of ten years, the candidate receiving the next highest number of votes shall be elected for a term of eight years and the candidate receiving the next highest number of votes shall be elected for a term of six years.

Approved, June 25, 1930. 75009 to 65795.

(Initiated Constitutional Amendment)

**FOUR YEAR TERM STATE AND COUNTY OFFICERS**

§ 1. AMENDMENT. That the following Amendment to the Constitution of the State of North Dakota be and the same is hereby adopted.

At the general election held in 1930, and every four years thereafter, there shall be chosen by the qualified electors of the State a Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Commissioner of Insurance and Commissioner of Agriculture and Labor, each of whom shall have attained the age of twenty-five years, shall be citizens of the United States and shall have the qualifications of State electors, except the Governor and Lieutenant Governor, who shall have the qualifications prescribed in Section 73 of this Constitution; and, every two years thereafter and at the general election, there shall be elected one Commissioner of Railroads who shall have the same qualifications as the Secretary of State. They shall severally hold their offices at the seat of government, shall serve for a term of four years and until their successors are elected and qualified, except the Commissioner of Railroads, who shall serve for a term of six years, but no person shall be eligible to the office of Treasurer for more than two consecutive terms.

There shall also be elected at the same time and place, and every four years thereafter, in each organized County in the State, a County Auditor, Register of Deeds, Treasurer, Sheriff, State's Attorney, County Judge, County Superintendent of Schools, Coroner, County Surveyor, Clerk of the District Court and Public Administrator, who shall be electors in the counties in which they are elected and shall hold office until their successors are elected and qualified; provided in counties having six thousand population or less the County Judge shall also be Clerk of the District Court. The Legislative Assembly shall provide by law for such other county, township and district officers as may be deemed necessary and shall prescribe the duties and compensation of all county, township and district offices. No County Treasurer and no Sheriff shall be eligible to hold office more than two consecutive terms.

The enactment of the within and foregoing Constitutional Amendment at the 1930 General Election shall increase the term of office to which each of the hereinbefore enumerated State and County officers, other than Commissioner of Railroads, shall be at that time elected, to the four-year term herein provided.

Disapproved November 4, 1930. 109060 to 84849.

## INITIATED MEASURES

### FOUR CENT GASOLINE TAX

**An Act to amend and re-enact Sections 2, 3 and 5 of Chapter 166, Session Laws of North Dakota for the year 1929, and providing for a tax of four cents per gallon upon motor vehicle fuels, and further providing for the distribution of the revenues derived from said tax.**

*Be It Enacted by the People of the State of North Dakota:*

§ 1. That Sections 2, 3 and 5 of Chapter 166, Session Laws of the State of North Dakota for the year 1929, are hereby amended and re-enacted to read as follows:

§ 2. AMENDMENT.] That each and every dealer in motor vehicle fuel, as defined in this Act, who is now engaged, or who may hereafter engage in his own name, or in the name of others, or in the name of his representative or agents, in this State, in the sale or use of motor vehicle fuel as herein defined, shall, not later than the 15th day of each calendar month render to the State Auditor, on forms prescribed, prepared, and furnished by the State Auditor, a sworn statement of the number of gallons of motor vehicle fuel sold or used by him or them during the preceding calendar month, which statement shall be sworn to by one of the principal officers, in case of domestic corporation; or by the resident general agent, or agents, or attorney-in-fact, or by a chief accountant or officer in case of a foreign corporation; by the managing agent or owner in case of a firm, association or individual; and shall contain a statement of the quantities of motor vehicle fuel sold or used within the State of North Dakota from his or their respective places of business, and if any of such motor vehicle fuel has been sold and delivered by said dealer to customers in the original package, whether in tank cars, barrels or other packages and in the same form and condition in which the same was imported, said statement shall show the amount of motor vehicle fuel so sold and the names and addresses of the persons, firm or corporations to whom the same was sold.

Said dealer shall pay a license tax of four cents per gallon on all motor vehicle fuel used and sold by him, other than such fuel sold by him or them, in the original packages as above specified, and shall have the option of paying said tax of four cents per gallon on all motor vehicle fuel sold by him or them, in the State, in the original packages in which the same was imported as above specified.

Whenever any sale is made by a dealer of motor vehicle fuel in the original packages in which the same was imported as above specified, such dealer shall deliver to the purchaser thereof an invoice of such motor vehicle fuel, stating the name and address of the purchaser, the quantity and kind of fuel sold, and whether or not said dealer assumes and agrees to pay the license tax on said fuel above specified, and such dealer shall transmit to the State Auditor at the

same time he shall render the statement above specified, duplicate copies of all such invoices issued and delivered by him during the period covered by such statement.

§ 3. AMENDMENT.] Every dealer paying such license tax or being liable for the payment thereof, shall be entitled to charge and collect the sum of four cents per gallon, on such motor fuel sold by him, as a part of the selling price thereof.

§ 5. AMENDMENT.] That said license tax in respect to motor vehicle fuel sold or used in any calendar month, shall be paid at the same time the statement provided for in Section 2 hereof is rendered, to the State Auditor, who shall receipt to the dealer therefor, and shall forthwith pay over all the money thus received to the State Treasurer, except such money as shall have been expended by said State Auditor for the purpose of making refunds as herein provided. The State Treasurer shall promptly credit to the State Highway Commission three-fourths of said license tax. The money so credited, being three-fourths of said license tax, is hereby appropriated to be used by such Commission for the construction, reconstruction, maintenance or repairs of highways or roads under the jurisdiction of said Commission. One-fourth of said license tax so received by the State Treasurer, shall be deposited by him to a "County Highway Aid Fund." During the months of January, April, July and October of each year, the State Treasurer, upon the warrant of the State Auditor, shall apportion and disburse all of the moneys in such "County Highway Aid Fund" not previously disbursed, including interest received thereon, to the various Counties of the State in the same proportion and ratio as the motor vehicle registration fund collected in each County shall bear to the total motor vehicle registration fund collected in all the Counties of the State during the entire preceding calendar year as shown by the certificate of the Registrar of Motor Vehicles. Such moneys so received by the respective Counties shall be set aside in a separate fund, under the jurisdiction and control of the Board of County Commissioners and appropriated and employed solely by such Counties in the construction, reconstruction, maintenance and repair of county highways, bridges and culverts thereon leading up to and connecting with federal aid and state aid highways. On making the payments to the State Auditor as provided in this section, the dealer shall first deduct from the amount of tax due, one and one-half per centum thereof to cover the cost of collecting said tax and transmitting the same to the State Auditor, provided, that in order to reimburse the State on account of the expenses of carrying the provisions of this Act into effect, the State Auditor is hereby authorized and directed to credit to the General Fund of the State, on the first day of July of each year, the sum of twenty-five thousand dollars out of the moneys collected as a license tax under the provisions of this Act.

Disapproved June 25, 1930. 83681 to 81758.

**SUNDAY THEATRES, SHOWS AND MOVIES**

An Act permitting the operation of theatres on Sunday after 1:30 o'clock P. M.

*Be It Enacted by the People of the State of North Dakota:*

§ 1. It shall be lawful to conduct, run and operate theatres, shows, moving picture shows including talking pictures and give public exhibitions on the first day of the week commonly called the Sabbath, provided: That such shows, theatres and exhibitions shall not be run and operated before the hour of One Thirty P. M. on such days.

§ 2. Section 9231 Compiled Laws North Dakota for the year 1913 and all Acts in conflict herewith are hereby repealed.

Disapproved June 25, 1930. 96990 to 84629.

**REFERRED MEASURES****CHAPTER 122**

(S. B. 104—Session Laws 1929)

**REPEAL DEPOSITORS' GUARANTY FUND ACT**

An Act providing for the discontinuance of further assessments by the Depositors' Guaranty Fund Commission for the collection and distribution of its assets, the dissolution of such commission, the disposition of its books, records and assets, and repealing all acts or parts of acts in conflict herewith.

Approved June 25, 1930. 94124 to 55853.

**CHAPTER 130**

(S. B. 196—Session Laws 1929)

**ONE MAN GAME AND FISH COMMISSION**

An Act to amend and re-enact Section 10322A3 Supplement to the compiled Laws of 1913, relating to the Game and Fish Department of the State of North Dakota.

Approved June 25, 1930. 91443 to 59329.

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