

Vehicle or combination of vehicles having an unloaded weight of 8 ton and not exceeding 9 ton	4¾c per mi.
Vehicle or combination of vehicles having an unloaded weight of 9 to 10 ton	5½c per mi.
Any vehicle or combination of vehicles having an unloaded weight of more than 10 ton.....	6c per mi.

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

Approved March 1, 1935.

MUNICIPAL CORPORATIONS

CHAPTER 188

S. B. No. 310—(Whelan)

AUTHORIZING COUNTIES, CITIES, ETC., TO ACCEPT DEVISES, BEQUESTS, LEGACIES AND GIFTS

An Act authorizing counties, cities, villages, school districts and park districts to accept devises, bequests, legacies and gifts, provided that the title thereto shall be held in trust; regulating the handling and use of such property and its income; validating devises, bequests, legacies and gifts heretofore made; and declaring an emergency.

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

§ 1. Devises, legacies, bequests and gifts may lawfully be made to the state or any county, township, city, village, school district or park district of the State of North Dakota; and the title to any property, real, personal or mixed, which shall be devised, bequeathed or given to the state, or any such county, township, city, village, school district or park district for the use and benefit thereof, shall vest in the state or such county, township, city, village, school district or park district, to be by it held in trust, under the terms and conditions provided for in such devise, legacy, bequest or gift; unless otherwise authorized by the will or other instrument providing for such devise, bequest, legacy or gift, no part of such property, or the income therefrom shall be diverted or used for any other purpose.

§ 2. Any board of commissioners, aldermen, trustees or other officers charged with the management of the fiscal affairs of the state, or any such county, township, city, village, school district or park district, to whom any such devise, bequest, legacy or gift is made, shall be authorized to accept, receive and administer the same for and on behalf of the state, or any such county, township, city, village, school district or park district.

§ 3. All devises, bequests, legacies or gifts as above provided for, which have heretofore been made, executed or delivered, whether vested or not, whether executed or executory, accrued or to accrue, are hereby declared to be legal and valid for all purposes and subject to the provisions of this act.

§ 4. 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 14, 1935.

CHAPTER 189

H. B. No. 145—(Schantz and Born)

PROCEDURE WHEN CITY APPROPRIATION INSUFFICIENT

An Act to amend and re-enact Section 3684a10 of the Supplement to the Compiled Laws of North Dakota for 1913 relating to the City Budget Law.

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

§ 1. AMENDMENT.] Section 3684a10 of the Supplement to the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 3684a10. Procedure where appropriation for particular purpose insufficient. If the appropriation for any particular purpose is later found insufficient to meet the necessary expenditures for that purpose, the clerk or auditor of the municipality shall, by the order of the council, make a transfer of the required amount from any other item of appropriation; provided, however, that except as otherwise provided in Section 11 of this act, no transfers shall be made from a fund within group C to funds within groups A and B, or from funds within groups A and B to funds within group C.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 5, 1935.

CHAPTER 190

S. B. No. 221—(Coffey and Miklethun)

TERM OF OFFICE ALDERMEN

An Act to amend and re-enact Section 3583 of the Compiled Laws of North Dakota for 1913, as amended by Section 2 of Chapter 167 of the Session Laws of the State of North Dakota for 1933, relating to terms of office of aldermen, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 3583 of the Compiled Laws

of North Dakota for 1913, as amended by Section 2 of Chapter 167 of the Session Laws of North Dakota for 1933 be amended and re-enacted to read as follows:

§ 3583. TERM OF OFFICE.] Aldermen shall hold their office for four years and until their successors are elected and qualified, provided, however, that the aldermen elected shall alternate in their respective terms of office by electing only one-half the number of aldermen in any one election, and it is further provided, that when a city governed under the commission system of city government adopts the City Council form of city government as provided by Section 3839 of the Compiled Laws of North Dakota for the year 1913, then shall the alternation of such aldermen be perfected as follows: The aldermen receiving the greatest number of votes when elected, shall serve, for four years, and the alderman receiving the lowest number of votes when elected shall serve for two years; and it is further provided that whenever more than one-half of the total number of aldermen in the city are to be elected in any one election, then the number representing one-half of the total number of aldermen of the city and receiving the lowest number of votes at said election when elected, shall serve for only two years and the others elected at said election shall serve for four years.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved March 7, 1935.

CHAPTER 191

S. B. No. 223—(Coffey and Miklethun)

TIME AND PLACE OF ELECTION, CITIES COUNCIL FORM

An Act to amend and re-enact Section 3666 of the Compiled Laws of North Dakota for 1913, relating to the time, place and manner of holding city elections in cities under the city council form of government, and providing that elective officers serve until their successors are elected and qualify, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 3666 of the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 3666. TIME AND PLACE OF ELECTION.] A biennial city election for elective officers herein provided shall be held on the first Monday in April of each even numbered year at such place or places

in each ward as the council shall designate; except in cities where aldermen are elected at large, the council shall designate one polling place only. The polls shall be kept open continually from eight o'clock in the forenoon until seven o'clock in the afternoon, and no longer, and ten days' previous notice shall be given by the council of the time and place of holding such election, by publication in at least two of the city papers published in said city, if two shall be published therein. All elective officers elected prior to the taking effect of this act shall continue to serve in their respective official capacities until their successors have been elected at a regular city election in accordance with the provisions hereof and until they have qualified for such offices.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved March 12, 1935.

CHAPTER 192

H. B. No. 262—(Bjerke and Bilden)

PROCEDURE PASSING ORDINANCES CITIES COUNCIL FORM

An Act to amend and re-enact Section 3596 of the Compiled Laws of 1913 relating to procedure in passing ordinances in cities under the mayor council form of government.

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

§ 1. AMENDMENT.] Section 3596, Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 3596. PROCEDURE IN PASSING ORDINANCES.] All ordinances shall be read twice and the second reading shall not be had in less than one week after such first reading, and after such first reading, before their final passage such ordinances may be amended and shall then be put upon their second reading and final passage, and if passed by the city council shall before they take effect, be deposited in the office of the city auditor for the approval of the mayor; and if the mayor approves thereof he shall sign the same, and such as he shall not approve he shall return to the council with his objections thereto in writing at the next regular meeting of the council occurring not less than five days after the passage thereof. Such veto may extend to any one or more items or appropriations contained in any ordinance making an appropriation, or to the entire ordinance; and in case the veto only extends to a part of such ordinance the residue

thereof shall take effect and be in force. But in case the mayor shall fail to return any ordinance with his objection thereto by the time aforesaid, he shall be deemed to have approved such ordinance and the same shall take effect accordingly; provided, that upon the return of any ordinance by the mayor, the vote by which the same was passed may be reconsidered by the council; and if after such reconsideration two-thirds of all the members elected to the city council shall agree by yeas and nays to pass the same, it shall go into effect, notwithstanding the mayor may refuse to approve thereof. The vote to pass the same over the mayor's veto shall be taken by yeas and nays and entered in the journal. The title and penalty clause of every ordinance imposing any penalty, fine, imprisonment or forfeiture for a violation of its provisions shall, after the passage thereof, be published in one issue of the official paper and proof of such publication by the printer or publisher of such newspaper, made before any officer authorized to administer oaths, and filed with the city auditor or any other competent proof of such publication shall in all courts be conclusive evidence of the legal publication and promulgation of such ordinances.

Ordinances passed by the city council and approved by the mayor or passed over the mayor's veto and requiring publication, shall take effect and be in force from and after publication thereof, unless it be otherwise expressly provided for in such ordinance. Ordinances passed by the city council and approved by the mayor or passed over the mayor's veto and not requiring publication, shall take effect and be in force from and after their passage unless it shall therein otherwise expressly be provided. The city auditor shall record in a book for that purpose, together with the affidavit of the publisher, all ordinances so passed and published; and such book or a certified copy of the ordinances as so recorded shall be received as evidence in all courts and places without further proof; or if printed in book or pamphlet form by the authority of the city council they shall be so received. All ordinances shall be styled, "Be it ordained by the city council."

Approved March 14, 1935.

CHAPTER 193

H. B. No. 143—(Schantz and Born)

VACANCIES IN OFFICES HOW FILLED, CITIES COMMISSION FORM

An Act to amend and re-enact Section 3803 Compiled Laws of North Dakota for 1913 relating to Vacancies in the Offices in Cities under the Commission Form of Government.

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

§ 1. AMENDMENT.] Section 3803 Compiled Laws of North

Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 3803. VACANCIES.] When any officer shall remove from the city or any such officer shall refuse or neglect for ten days after official notification of his appointment to qualify and enter upon the discharge of the duties of his office the office shall be deemed vacant. If a vacancy occurs in the office of city commissioner or president of the board of city commissioners by death, resignation or otherwise, within six months prior to the next city election, the board of city commissioners shall appoint a person to fill such vacancy; if earlier, then such vacancy shall be filled by election. Whenever a vacancy shall occur in any office to be filled by appointment the same proceedings shall be had to fill such vacancy as are provided for in case of an appointment in the first instance.

Approved March 5, 1935.

CHAPTER 194

S. B. No. 216—(Committee on State Affairs)

EXECUTION, REGISTRATION, ETC., MUNICIPAL BONDS

An Act amending and re-enacting Section 16 of Chapter 196 of the Laws of North Dakota for the year 1927 and relating to the execution, registration, certification and delivery of bonds issued by a municipality.

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

§ 1. That Section 16 of Chapter 196 of the Laws of North Dakota for the year 1927 is hereby amended and re-enacted to read as follows:

“EXECUTION, REGISTRATION, CERTIFICATION AND DELIVERY.

Municipal bonds shall be executed in the name of and for the municipality issuing them by their qualified officers, who shall for that purpose sign the same in their official capacities, as follows: For a county: the chairman of the county board and the county auditor; for a city: the mayor or president of the board of city commissioners and the city clerk or city auditor; for a village: the president of the village board of trustees and the village clerk; for any other municipality: the chairman or president of the board and the clerk or secretary of the governing body, or such other officer or officers as the governing body thereof may determine. The interest coupons attached to such bonds may be executed by the lithographed or engraved facsimile signatures of such officers. The validity of every bond so executed shall remain unimpaired by the fact that one or more of the subscribing officers shall have ceased to be such officer or officers before delivery to the purchaser. Every bond issued by a municipality having an official or corporate seal shall be sealed

with such seal. After the bonds have been executed as above provided they shall be delivered to the county auditor, except in cities or school districts or park districts having a population of more than 4,000, in which cities or school districts or park districts they shall be delivered to the auditor, clerk or secretary thereof. When such bonds are delivered to the county auditor there shall be delivered to him a certified copy of the resolution of the governing body showing their sale. The county auditor or auditors, clerk or secretary of cities, school districts or park districts having a population of more than 4,000, upon receipt of such bonds, shall register, in a separate book provided for the purpose, an accurate description of every bond so issued, specifying its number, date, purpose, amount, rate of interest, when and where payable, and the coupons attached. In all cases where the registering officer is not the recording officer of the governing body of the municipality issuing the bonds, there shall also be filed with him a certified copy of all proceedings of the municipality relating to such issue, and when the transaction relating to the sale of said bonds is to be consummated there shall be delivered to the County Auditor a detailed financial statement of the municipality given by the treasurer of the municipality under oath. When such bonds have been fully registered as required by this paragraph, and when he has received such detailed financial statement of the municipality, the registering officer shall sign an endorsement on the back of each bond certifying that such bond is fully registered in his office, and, if such be the truth, that such bond is issued in accordance with law and is within the debt limit of the municipality issuing the same. No bond shall be valid without such certificate endorsed thereon. When the bonds have been so registered and certified such registering and certifying officer shall deliver the same to the purchaser thereof in accordance with the terms of the resolution awarding their sale, and shall forthwith transmit the proceeds thereof to the treasurer of the municipality. All bonds authorized pursuant to this act which are not delivered to the purchaser and paid for within three years of their date shall be cancelled. It shall be the duty of such registering and certifying officer, in the presence of at least two other electors of the municipality which authorized their issuance, to destroy such bonds by the burning thereof, and with such witnesses to make and file in the records of his office an affidavit as to the bonds so destroyed and the time and place of such destruction, and to make a record thereof in a proper book of record in his office. A copy of such affidavit shall be filed with the auditor, clerk or secretary of the municipality which authorized their issuance."

Approved March 13, 1935.

CHAPTER 195

S. B. No. 114—(Miklethun, Eastgate, Drew and Peterson)

FUNDING AND REFUNDING EXISTING INDEBTEDNESS
OF MUNICIPALITIES

An Act relating to funding and refunding existing indebtedness of municipalities, and declaring an emergency.

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

§ 1. A municipality may issue bonds under the provisions of this act for the purpose of funding and refunding its existing indebtedness at any time prior to May 1, 1937. 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. The terms "floating indebtedness" and "bonded indebtedness" shall collectively be deemed to include orders, certificates of indebtedness, bonds, contracts and warrants and other instruments evidencing a general municipal indebtedness, issued and outstanding prior to January 1, 1935.

§ 2. Any municipality may by resolution of the governing body propose or accept and adopt a plan for funding and refunding floating indebtedness and/or bonded indebtedness or any part thereof existing prior to January 1, 1935. Such resolution shall recite the plan in detail and contain such provisions not inconsistent with this act as shall be found to be for the best interests of the municipality, its creditors, and its taxpayers. The plan may contemplate the issuance of bonds to refund any or all of its outstanding bonds, including bonds which are not due or about to become due, may provide that bonds may be exchanged in whole or in part for unmatured bonds with the consent of the holders thereof, and may provide for the execution and sale or exchange and delivery of bonds from time to time as needed to meet maturing obligations. Any such plan may provide for the issuance of one series of bonds or more than one series. The governing body may fix a time limit within which creditors may surrender obligations for payment or exchange and may thereafter extend such time if it is found beneficial to the municipality to do so. The plan may require the consent of any specified percentage or amount of the holders of the obligations included in such plan before it shall become effective. Any municipality may take any action authorized by any present or future bankruptcy or similar law enacted by the Congress of the United States designed to assist in the compounding or compromising and refinancing of indebtedness, including the payment of fees and expenses necessary to make use of such act and approved by the court having jurisdiction thereof.

§ 3. Such resolution must list, or refer to a document on file in the office of the recording officer of the municipality which lists, all indebtedness to be funded or refunded thereunder with sufficient

details to identify the obligations referred to, and if the governing body so directs the recording officer shall cause to be published in one issue of an official newspaper or other newspaper designated by the governing body a notice of the filing of such plan and list and a statement that notice is given pursuant to this section. The validity and enforceability of any item of indebtedness so listed shall never be questioned in any action or proceeding unless the same shall be commenced prior to a date sixty days after the date of such publication. The failure to correctly describe any valid obligation shall not prevent the refunding of such obligations.

§ 4. Upon any plan becoming effective according to its provisions, the municipality may sell or exchange the bonds described therein. The bonds shall be issued upon authority of a resolution adopted by majority vote of the governing body without submitting the matter to vote of the qualified voters, and such resolution and all proceedings respecting the plan or the bond issue shall not be subject to referendum vote, nor shall it be necessary that the plan be submitted to the board of budget review in the manner required by law for other bond issues. The bonds issued hereunder shall be in such form and shall be executed in such manner as the governing body may determine, shall bear interest at a rate or rates fixed by the governing body, not exceeding the rate of interest on the bonds or other indebtedness refunded thereby, and not to exceed in any case six (6) per cent per annum, and shall recite on their face that the same have been issued pursuant to this act and that a direct, annual, irrepealable tax has been levied by the municipality upon all the taxable property therein sufficient to pay the interest when it falls due and also to pay and discharge the principal of such bonds at maturity. All such bonds shall be general obligations of the municipality, and the full faith, credit, and unlimiting taxing powers shall be pledged to their payment unless the plan and terms of the bonds expressly provide otherwise.

The bonds of any series may mature serially. In such case, the first installment shall become due in not more than five years and the last installment in not more than twenty-five years from the date of issue, one installment shall fall due each year, and the largest installment shall not be more than five times the smallest preceding installment. Serial bonds shall be made redeemable on any interest paying date or dates by appropriate provisions therein.

In the event that the bonds of any series do not mature serially, all such bonds must mature on a single date not more than twenty years after the date of issue, and shall be redeemable on any interest payment date at par and accrued interest, and the municipality shall agree to retire not less than a certain percentage of such bonds each year commencing not later than the fifth year. Said bonds may be retired by purchase or by redemption. At any time there is any money in the special fund for such series in excess of the amount required to pay interest during the next ensuing year, the governing

body may cause published advertisement to be made for offers to surrender bonds, and may use such money to purchase bonds below par by accepting the offers deemed most favorable. Any money not so used prior to thirty days before the next ensuing interest payment date shall be used for redemption. At least thirty days before each interest payment date, the treasurer shall specially deposit in the bank or with the institution at which such bonds are payable any money then remaining in such fund in excess of said interest requirements sufficient to retire one or more bonds, together with a list of the serial numbers and denominations of the bonds of such series then outstanding and a list of the names and addresses of holders thereof insofar as they are known. For such purpose, the recording officer shall keep a register showing the names and addresses of the holders insofar as such information is furnished to him by the holders of any such bonds. Thereupon the paying agents shall determine by lot which of the outstanding bonds shall be redeemed. Notices of call for redemption shall be mailed to the holders thereof, if known, at the last known address. The bonds so called, with interest to the redemption date, shall be paid out of the money so specially deposited on presentation thereof with all unmatured coupons attached. The bonds called for redemption shall cease to bear interest on the redemption date, and the accrued interest thereon shall not be paid unless the bond with unmatured coupons shall be surrendered for payment. If the bonds are payable at the office of the treasurer of the municipality then the treasurer shall determine by lot which of such bonds shall be redeemed and issue call for payment as herein provided.

§ 5. Bonds issued hereunder may be sold for cash or may be exchanged for outstanding bonds or other indebtedness, or part sold and part exchanged, but none shall be sold or exchanged upon such terms that the annual interest cost of the proceeds, computed to maturities of the bonds of the series according to standard tables of bond values now in general nation-wide use by financial institutions and insurance companies, will be more than the interest rate on the bonds or other indebtedness refunded thereby, and not to exceed in any case six (6) per cent per annum. The officers may use the proceeds of bonds sold to purchase the outstanding bonds, for the refunding of which such bonds were issued, at the best price obtainable, not exceeding par and accrued interest to date of purchase, or may use such proceeds to pay a certain percentage of all bonds or other indebtedness surrendered for exchange and deliver bonds in exchange for the remainder of said bonds or indebtedness. Prior to or contemporaneously with the delivery of bonds, an equal par value of outstanding bonds or other indebtedness shall be surrendered and cancelled. Insofar as any exchanges are made, the outstanding obligations shall be taken at not more than face amount with accrued interest and the bonds delivered shall be valued at not less than the face amount with accrued interest.

§ 6. Prior to the issuance of bonds, the governing body shall cause a levy to be made upon all the taxable property in the municipality of a direct, annual, irrepealable tax for each series sufficient to pay the principal and interest of the bonds of such series when due. The levy for each of the years during which the bonds shall be outstanding shall be separately stated. If the bonds are of serial maturities, the levy shall be at least in such amount that if collected before delinquency the proceeds, together with any other money theretofore or thereupon appropriated to such fund, will be sufficient to meet the payment of principal and interest as the same become due. If the bonds are of a single maturity, the levy for the first five years must be sufficient to pay interest, and thereafter each annual levy shall be not less than an amount such that levies in the same amount for each ensuing year would be sufficient to amortize and pay the full principal and interest of the bonds on or before maturity date. A certified copy of the tax levy resolution or ordinance shall be filed with the county auditor of the county in which the municipality is located prior to the delivery of the bonds, and after the issuance of such bonds the tax shall be from year to year carried into the tax roll of the municipality and collected as other taxes are collected. In the event that after a certified copy of the levy is delivered to the county auditor any part of the bonds shall not be issued or a part of the issued bonds shall be cancelled, the governing body may cancel a proportionate amount of the levy, but the amount of taxes remaining uncanceled shall be not less than the amount required to pay principal of and interest on the bonds issued and then remaining outstanding. The governing body shall create a special fund for each series of bonds and shall cause to be placed therein all proceeds of taxes levied on account thereof. The governing body shall also appropriate thereto all of the proceeds of taxes levied for the payment of bonds and ratio of outstanding taxes against the ratio of other indebtedness funded or refunded thereby or anticipated by certificates of indebtedness and/or warrants funded pursuant to this act, and any other money appropriated thereto. The special fund shall be used for no other purpose than to pay principal and interest of the bonds of such series or to purchase the same as herein provided. If upon payment of all of the bonds of any series any money remains in the special fund, the same may be transferred to the general fund. The foregoing provisions shall not be construed as limiting the power of any municipality to levy taxes for the payment of the bonds, and it shall be the duty of the proper officers to levy any and all taxes which may be necessary to pay or discharge the principal and interest of all bonds issued hereunder, regardless of any tax levy limitations.

§ 7. All corporate trustees and savings banks and any other person, board, or body whose investments are regulated or restricted under any law of this state which may have any of the funds under its or their control invested in any obligation of any municipality

proposing a plan hereunder may enter into such plan and accept bonds issued hereunder notwithstanding any provision of law regulating or respecting said investments.

§ 8. This act shall be deemed and construed as complete in and of itself, and the bonds issued in compliance herewith shall be the valid and binding obligations of the municipality according to their terms whether or not such municipality shall have complied with any other law or charter provision authorizing or regulating the issuance of bonds by such municipality. This act is intended to be an additional remedial measure and shall not be deemed to have amended or repealed any existing law.

§ 9. If any section, clause, sentence, or provision of this act or the application of such section, clause, sentence, or provision to any person, party, or circumstance shall be held unconstitutional or otherwise invalid, the remainder of this act or the application of such section, clause, sentence, or provision to parties or circumstances other than those as to which it is held invalid shall not be affected thereby.

§ 10. 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 12, 1935.

CHAPTER 196

H. B. No. 111—(Noben, Place and Anderson of Bowman)

COMPROMISE MUNICIPAL JUDGMENT LIABILITIES, BOND ISSUE, ETC.

An Act entitled an Act to empower the governing boards of municipalities to compromise and fund judgment liabilities; to issue bonds in satisfaction of judgments reduced in amount by compromise and provide for the form, execution, registration and payment of the same; and to invest municipalities with an interest in uncollected special assessments in certain cases.

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

§ 1. COMPROMISE OF JUDGMENTS.] Whenever final judgment for the payment of money shall be entered against any municipality, which judgment the municipality may be compelled to pay by tax upon all taxable property therein, the governing body of the municipality, by resolution adopted by vote of two-thirds of its members, may enter into an agreement in the name of the municipality with the holder of such judgment for the compromise thereof by payment of a sum less than the amount of such judgment. If the amount so agreed upon to be paid, in compromise of the judgment, shall be at least 25 per cent less than the unpaid amount of such judgment,

the governing body may provide for and levy such tax as shall be necessary to pay the judgment, so reduced, in accordance with the terms of the compromise agreement and limitations otherwise provided upon taxes which may be levied by municipalities for the payment of judgments shall not apply.

§ 2. COMPROMISED JUDGMENTS FUNDED BY BONDS.] The compromised amount of the judgment so agreed upon may be made payable in stated annual installments over a period of years, not exceeding twenty-five, and at a rate of interest not exceeding five per cent per annum. To bring about the immediate satisfaction and discharge of such judgment upon the records and to better gain the benefit of a satisfactory compromise the governing body by resolution, adopted by vote of two-thirds of its members, may evidence the promise of the municipality for the payment of such annual installments in the form of negotiable bearer bonds payable serially to mature annually, as the parties may agree, in amounts aggregating and corresponding with the amounts of such annual installments and interest, respectively, as so fixed by compromise. Bonds so issued shall be delivered to the judgment creditor upon release of the judgment and in consideration of the full satisfaction thereof. The negotiable bearer bonds payable serially as herein provided shall be executed in the name of the municipality by the mayor or president or chairman of the governing body and the clerk, secretary, or auditor as the case may be. Except as herein provided said bonds shall be in the form as now or hereafter provided by law for bonds issued by municipal corporations which are payable from the levy of a general tax; and, prior to the delivery of such bonds to the judgment creditor, said bonds shall be registered by the officer, in the office, and in the manner now or hereafter provided for the registration of the bonds, of municipal corporations, which are so payable.

§ 3. TAX FOR PAYMENT OF BONDS.] At the time of the issuance of such bonds and before the delivery thereof the governing body issuing the same shall, by recorded resolution, levy a direct annual and irrepealable tax sufficient in amount to pay the principal and interest of said bonds as they severally mature, a copy of which resolution shall be certified to and filed with the county auditor. The county auditor shall thereupon and annually thereafter spread the annual tax so provided upon the tax list and deliver the same to the county treasurer who shall collect such tax in the manner provided for the collection of other taxes.

§ 4. FUNDING DAMAGE JUDGMENTS, SPECIAL ASSESSMENT WARRANTS.] When warrants have been or shall be issued by a municipality payable from special assessments made to pay the cost of a local improvement and the holder or holders of all or any portion of the issue of such warrants procures the entry of final judgment against the municipality in damages for the amount of such

warrants by him or them held, on account of the municipality's negligence or breach of duty in the levy or collection of such special assessments, and the judgment so entered shall be compromised and funded by the issuance of bonds as herein provided, the municipality shall thereupon succeed and be subrogated to the rights of the holder or holders of said warrants in and to all remaining uncollected special assessments and the fund thereby created, and shall receive payment and distribution from the same as if owning and holding the warrants affected by such judgment. But monies so acquired by or for the municipality shall be held apart from its general funds and first applied to the payment of the bonds issued as aforesaid in compromise of such judgment. After payment of all the bonds so issued the levy of an annual tax for the payment of the same shall be discontinued and the municipality shall cover into its general fund any surplus then or thereafter acquired from its interest, as herein provided, in the fund created by such special assessments.

§ 5. INTENTION OF ACT.] This act shall not be construed or applied to limit or enlarge any municipal power now or hereafter provided for the issuance of any evidence of debt, bonds, or refunding bonds or the levy of any tax for the payment of the same; but this act shall be construed and applied to create additional powers and optional and alternative methods for the single and specific purpose of enabling municipalities to compromise judgments, issue bonds to fund and satisfy the same and levy taxes in amounts necessary for the purpose without respect to limitations otherwise existing; to scale down such judgments and compromise and fund the same over a period of years.

§ 6. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 14, 1935.

CHAPTER 197

S. B. No. 98—(Jones and Coffey)

DEFINING POPULATION, MUNICIPAL BOND ISSUES

An Act to amend and re-enact Subsection (3) of Section 1, Chapter 196, Session Laws of North Dakota for the year 1927, and declaring an emergency.

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

§ 1. That Subsection (3) of Section 1, Chapter 196, Session Laws of North Dakota for the year 1927 be amended to read as follows:

(3) Any reference to the population of a municipality means its population according to the last officially published United States

or State Census, whichever was latest taken; and every reference to the value of taxable property or the assessed valuation of a municipality means that portion of the value of all taxable property in such municipality as last finally equalized, against which the mill rate of taxes for state and county purposes is computed and extended, except that for the purpose of determining the limit of the indebtedness of any municipality as applied to the issuance of bonds to fund certificates of indebtedness and warrants issued under Sections 2079b1 to 2079b13, both inclusive, Supplement to the Compiled Laws of 1913 of North Dakota as amended or for the purpose specified in paragraph (g) of Subsection (2) of Section 4 of this act as amended, such term shall have the same meaning as defined in Section 2122 Compiled Laws of 1913, as amended, viz: the full and true one hundred (100) per cent value of all taxable property in such municipality as finally equalized by the State Board of Equalization, provided, however, said full and true 100% value shall apply only to the refunding of evidences of indebtedness issued and outstanding prior to January 1, 1935.

§ 2. 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 12, 1935.

CHAPTER 198

S. B. No. 209—(Committee on State Affairs)

PRIVATE SALE MUNICIPAL BONDS TO U. S. A. OR ITS AGENCIES

An Act to amend and re-enact Subdivision 6 of Section 17 of Chapter 196, Session Laws of North Dakota for the year 1927, authorizing the private sale of bonds to the United States of America or any agency or instrumentality thereof without public advertisement, and declaring an emergency.

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

§ 1. AMENDMENT.] That Subdivision 6 of Section 17 of Chapter 196, Session Laws of North Dakota for the year 1927, be amended and re-enacted to read as follows:

(6) The procedure prescribed in this section shall not be required in case bonds are sold to the State Board of University and School Lands or in case other trust funds administered by public officials are invested in them or are sold to the United States of America, or any agency or instrumentality thereof.

§ 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 March 7, 1935.

CHAPTER 199

S. B. No. 203—(Committee on State Affairs)

TAX LEVY PRINCIPAL AND INTEREST MUNICIPAL BONDS
SUSTAINED BY REVENUE-PRODUCING UTILITY

An Act to amend and re-enact Section 12 of Chapter 196 of the Laws of North Dakota for the year 1927, in relation to the levy of taxes to pay the principal of and interest on bonds issued by municipalities which are further sustained by revenue of a revenue-producing utility, industry, or enterprise, and declaring an emergency.

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

§ 1. That Section 12 of Chapter 196 of the Laws of North Dakota for the year 1927, is hereby amended and re-enacted to read as follows:

§ 12. DIRECT, ANNUAL, IRREPEALABLE TAX.] The governing body of every municipality issuing bonds under the authority of this act shall, after the sale of such bonds and before the delivery thereof, levy by recorded resolution or ordinance a direct, annual tax sufficient in amount to pay and for the express purpose of paying the interest on such bonds as it falls due, and also to pay and discharge the principal thereof at maturity. The municipality shall be and continue without power to repeal such levy or obstruct the collection of said tax until such payments have been made or provided for. A copy of such resolution or ordinance shall be certified to and filed with the county auditor and after the issuance of such bonds such tax shall be from year to year carried into the tax roll of the municipality and collected as other taxes are collected. No further or annual levy for that purpose shall be necessary; provided, however, that when such bonds are further sustained by revenue of a revenue-producing utility, industry or enterprise, said resolution or ordinance may provide that the tax to be levied and assessed may be reduced by such amount and under such conditions as shall be determined in said resolution or ordinance so long as adequate provision is always made for the payment of such bonds and interest thereon.

§ 2. EMERGENCY.] This act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1935.

CHAPTER 200

S. B. No. 326—(Drew)

ELECTRIC LIGHT AND POWER PLANTS, ETC., CITIES,
TOWNS OR VILLAGES

An Act to amend and re-enact Section 1, of Chapter 172, of the Session Laws of 1929, which authorizes and empowers cities, towns or villages to purchase, erect, operate and maintain or lease electric light and power plant, electric distribution system and transmission line, telephone plant or parts of systems or lines or waterworks, mains, distribution system and/or equipment or appliances connected therewith as provided in the act, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 1, of Chapter 172, of the Session Laws of 1929 be and the same is hereby amended to read as follows:

§ 1. Any city, village or town is authorized and empowered to purchase, erect, operate and maintain, enlarge, improve and extend, or lease from any person, firm or corporation, or sell or lease to any person, firm or corporation, any electric light and power plant, site buildings and equipment thereof, or any electric distribution system and equipment thereof, or any electric transmission line and equipment thereof, or any telephone plant, equipment and distribution system thereof, or any waterworks, mains, distribution system and/or equipment or appliances connected therewith.

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

Approved March 14, 1935.

CHAPTER 201

S. B. No. 198—(McDonald)

HOURS OF EMPLOYMENT MUNICIPAL EMPLOYEES

An Act limiting the hours of employment of municipal employees, fixing the penalty for violation thereof, and repealing all acts and parts of acts in conflict therewith.

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

§ 1. It shall be unlawful for any person employed by any city in the State of North Dakota having a population of 7,500 or more to work for any city more than eight hours in any one day, or more than fifty-six hours in any one week, except in case of emergency, provided, that this act shall not apply to public officers who are elected to their said office; provided, however, that the provisions of this act shall not apply to the fire department of any city.

§ 2. Any employee of any city wilfully violating this act, and any city officer, or member of any board, bureau, or commission, having charge or supervision over the employment of any such employee, who shall require such employee to violate Section 1 hereof, by requiring him to work more than eight hours in any one day or more than fifty-six hours in any one week, except in case of emergency, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not less than ten dollars or more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

§ 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1935.

CHAPTER 202

S. B. No. 205—(Committee on State Affairs)

MORTGAGE OR TRUST DEED TO SECURE GARBAGE, SEWAGE, ETC., PLANT BONDS, ETC.

An Act to amend and re-enact Subsection 2 of Section 2 and Section 5 of Chapter 179 of the Session Laws of North Dakota, 1933, authorizing the execution of a mortgage or a deed of trust to secure mortgage bonds and making such bonds negotiable.

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

§ 1. AMENDMENT.] Subsection 2 of Section 2 of Chapter 179 of the Session Laws of North Dakota, 1933, is hereby amended and re-enacted to read as follows:

(2) Governmental agencies or municipalities may issue mortgage bonds therefor beyond the general limits of the bonded indebtedness prescribed by law for the purpose of defraying the cost of such sewage disposal plant and system, or such garbage disposal plant. The mortgage bonds herein authorized shall not impose any general liability upon the governmental agencies or municipalities but shall be secured by the net revenues of the improvement or system and by a mortgage or deed of trust upon such improvement or system. The governmental agencies or municipalities are hereby authorized to execute and deliver such mortgage or deed of trust. Such mortgage bonds shall be sold for not less than par, shall bear interest at a rate not to exceed 7 per cent per annum, and the total amount thereof shall not exceed 60 per cent of the costs of such improvement except as hereinafter provided. The remaining 40 per cent of the total cost of such improvement shall be defrayed as provided in Subsection (1) preceding. No mortgage bonds shall be issued except upon a three-fifths affirmative vote of the legislative body of such governmental agency or municipality. The form, re-

citals, maturity, rate of interest and whether payable annually or semi-annually, of such mortgage bonds shall be fixed and determined by a three-fifths affirmative vote of the legislative body of such governmental agency or municipality.

§ 2. That Section 5 of Chapter 179 of the Laws of North Dakota for the year 1933 is hereby amended and re-enacted to read as follows:

5. "Any of the governmental agencies or municipalities herein mentioned, through the legislative body or the legislative bodies thereof, shall have authority to issue and sell the necessary bonds for the construction and installation thereof, including the disposal plant and such intercepting and other sewers as may be necessary to permit the effective operation of such system and for the purchase of such real and personal property as may be necessary for use in connection with such system; such bonds to draw interest at not to exceed seven per cent per annum, and payable in not to exceed thirty years from the date of issuance; the legislative body or the respective legislative bodies shall determine the denomination of said bonds and the date, time and manner of payment. Governmental agencies or municipalities issuing bonds hereunder, the principal and interest of which are not to be paid out of funds created from service charges, as hereinbefore provided, may raise such sum annually by taxation as the legislative body or the respective legislative bodies may deem necessary to pay the interest on such bonds and to create a sinking fund to pay the principal thereof as it falls due but shall not exceed in amount the limitations provided by Chapter 196 of the 1927 Session Laws and other laws amendatory and supplementary thereof. Whenever any of the governmental agencies or municipalities herein mentioned has, pursuant to existing laws, heretofore obtained authority to issue and sell bonds for the construction and installation of any of the improvements herein mentioned, such governmental agency or municipality may defray the costs of such improvements entirely out of the proceeds of the sale of such bonds, or may defray the cost of such improvement in part out of the proceeds of the sale of such general liability bonds and in part out of the proceeds of the sale of mortgage bonds as provided in this act, except that the mortgage indebtedness upon such improvement shall not when originally created exceed three-fifths of the total cost of such improvement. Provided that bonds issued hereunder which are a general liability of the city shall not be issued except upon a vote of the people as provided by Chapter 196 of the 1927 Session Laws and acts amendatory and supplementary thereof. All first mortgage bonds which have been issued or which may hereafter be issued under the provisions of this act may be negotiated in the same manner and with the same legal effect as negotiable instruments under the provisions of Chapter 103 of the Compiled Laws of North Dakota 1913.

§ 3. An emergency is hereby declared to exist and therefore

this act shall take effect and be in full force immediately upon its passage and approval.

Approved March 7, 1935.

CHAPTER 203

S. B. No. 175—(Committee on Taxes and Tax Laws)

MUNICIPAL CONTROL ACT—LIQUOR

An Act providing for a system of municipal control of the purchase, sale, importation, transportation, handling, possessing, dispensing and use of alcohol and alcoholic beverages by any incorporated city of the state having a population of two hundred or more; the levy and collection of a tax thereon; the duties of the State Treasurer; providing for injunctions against and abatement of liquor nuisances; the continuing in force of the present statutory regulations prohibiting the manufacture, sale and possession of intoxicating liquors; providing penalties for violations of the provisions of this act.

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

§ 1. This act shall be known and may be cited as the "Municipal Control Act."

§ 2. This act shall be deemed an exercise of the police powers of the state for the protection of the public health, peace and morals; to prevent the recurrence of abuses associated with saloons; to eliminate the evils of unlicensed and unlawful manufacture, selling and disposing of alcoholic beverages; and all provisions of this act shall be liberally construed for the attainment of these purposes.

§ 3. "Alcohol" and "Alcoholic Beverages" means and includes any alcoholic, spirituous, vinous, fermented, malt or other liquor, which contains more than one per centum (1%) of alcohol by weight; provided, however, that it is not intended that beer be included with this definition.

§ 4. That alcohol and alcoholic beverages, as defined in Section 3 hereof, may be imported, transported, possessed and sold in the State of North Dakota in the manner hereinafter set forth.

§ 5. Any incorporated city, having a population of two hundred or more, as shown by the last United States census, that maintains a regular police department, may establish, own and operate a municipal store for the sale of the beverages described in Section 3 of this act. Whenever the word "Store" is used in this act it shall mean a municipal liquor store.

§ 6. No store, as provided for herein, shall be opened or maintained in any city unless and until the opening and maintenance thereof is approved by a majority of the voters voting in such municipality at an election held for that purpose.

§ 7. The governing board of any incorporated city, having a population of more than two hundred as disclosed by the last Federal census, shall, upon the petition of fifteen per cent (15%) of the legal voters of such city to be determined by the vote cast for president of the city commission or mayor of the city, as the case may be, at the last preceding election, call a special election and give notice of the time of holding a special election to vote upon the question of whether or not a municipal liquor store shall be established, owned and operated by such city; provided, however, that if a regular city election is to be held within thirty days after the filing of said petition, such question shall be voted upon at the regular city election. At such election, when so petitioned for and called, said question shall be voted upon by a separate ballot, the terms of which shall be either for the establishment of a municipal liquor store or against the establishment of a municipal store. The votes shall be counted and the results of such voting shall be duly canvassed, certified and returned in the same manner as provided by law for the return of regular city elections, and, if a majority of the votes cast upon the question shall be in favor of establishing a municipal liquor store, then and in that event the governing board of said city shall proceed to establish a store according to the provisions of this act.

§ 8. If the voters of any incorporated city, as defined herein, approve the opening and maintenance of a store as set forth in this act, then and in that event the board shall appoint a manager and such assistants as it may deem necessary to operate such store. The manager and his assistant or assistants, if any, shall be required to furnish surety bonds to the municipality, conditioned for the faithful performance of their service and the faithful accounting to the municipality for all property, moneys and effects coming into their possession as such manager or assistant, the bond or bonds to be in such sums as the governing board may deem sufficient. The manager or any assistant manager of the store may be removed at any time and without cause by the mayor of the city or the president of the city commission. The governing body of the municipality shall fix the salary of the manager and his assistants, if any, of such store and fix and prescribe such rules and regulations not inconsistent with the provisions of this act as in its discretion may be necessary to the proper and effective management of the store; provided, however, that the manager shall not be paid a salary to exceed one hundred and fifty dollars (\$150.00) per month, and an assistant or assistants shall not be paid to exceed one hundred and twenty-five dollars (\$125.00) per month.

§ 9. The prices of all liquor shall be fixed by the governing board of the municipality from time to time so that the net annual revenue received by the board therefrom shall not exceed twenty-five per cent (25%).

§ 10. For the purpose of carrying out the provisions of this

act the governing board of the municipality is hereby authorized to rent or purchase such real or personal property as it may deem necessary for the establishment and maintenance of such store, and such governing body is hereby authorized and empowered to incur such indebtedness on the part of the municipality for the purchase of liquor and expense of operation as in its judgment is deemed necessary for the carrying out of the provisions of this act; provided, however, that in no case shall such indebtedness exceed the sum of twenty-five thousand dollars (\$25,000.00).

§ 11. The store referred to in this act shall not be open for business prior to 10:00 o'clock A. M. and shall close promptly at 9:00 o'clock P. M. and shall be closed on Sundays, legal holidays and all days on which any state or municipal election is being held.

§ 12. The beverages described in this act shall not be sold to minors.

§ 13. All sales made by such stores shall be in bulk and in sealed or corked packages, and no drinking of the beverages described herein shall be allowed or permitted in any of said stores or upon the premises where the same are located.

§ 14. In every such store there shall be kept a record book in which each purchaser must sign his name in his own hand writing, giving his address and a receipt for every package of beverage purchased, and the record shall designate the kind and the amount of the purchase, and such record shall be open to inspection by the governing board of the municipality or any member thereof at any time, and it shall be the duty of the manager or assistant manager or managers of the store to rigidly enforce this rule. Provided further that the manager of said store shall keep a true and correct record of the stock on hand and all sales made by said store, and at the end of each month he shall make and deliver to the city auditor and the state treasurer a true and correct inventory of the stock on hand and a complete description of the merchandise sold during the month.

§ 15. There shall be levied and collected on all alcohol and alcoholic beverages as defined herein and sold in such municipal store the following excise tax:

- (1) On all light wines up to 14% of alcohol by weight, the sum of 10¢ per gallon.
- (2) On all wines from 14% to 21% of alcohol by weight, the sum of 20¢ per gallon.
- (3) On all wines from 21% to 24% of alcohol by weight, the sum of 40¢ per gallon.
- (4) On all wines containing more than 24% alcohol by weight, the sum of 60¢ per gallon.
- (5) On all natural sparkling wines containing alcohol, the sum of 60¢ per gallon.

(6) On all artificial sparkling wines containing alcohol, the sum of 30¢ per gallon.

(7) On all other liquors, liqueurs and cordials, the sum of 60¢ per gallon.

Provided that in computing the tax on any package of spirits a proportionate tax at a like rate on all fractional parts of a gallon shall be paid, except that all fractional parts of a gallon less than 1/16 shall be taxed at the same rate as shall be taxed for 1/16 of a gallon.

§ 16. Stamps, representing the excise tax set forth in Section 15 hereof, shall be securely fixed to each package sold by such liquor store and it shall be unlawful for any person to possess any such package or container without having a stamp or stamps affixed thereto.

§ 17. The stamps herein provided for shall be prepared and printed by the State Treasurer in such form and denominations as may be necessary for the carrying out of the provisions of this act and shall be issued and sold by the State Treasurer to the municipality upon requisition by it from time to time. All expenses of the State Treasurer in complying with the provisions of this act shall be deducted from moneys received from the sale of such stamps, and the remainder of said moneys, so received from a sale of said stamps, shall be, by him, credited to the General Fund of the state. The State Treasurer shall, by regulation, prescribe the manner in which said stamps shall be affixed and cancelled. The municipality shall be liable for the payment of the tax provided in this Chapter on sales made by said store and shall be required to affix stamps of the proper amount on every package or other container, containing the beverages described in this act, sold or delivered to any purchaser. Such stamps may be affixed at any time prior to sale to the consumer.

§ 18. It shall be unlawful for any person to possess the beverages described in Section 3 of this act except in his home, or transporting the same thereto, and it shall be unlawful for any person other than an employee of a municipal store to sell or barter any of the beverages described in Section 3 of this act.

§ 19. It shall be the duty of every sheriff and deputy sheriff, constable, marshal, chief of police or police officer of any city, town or village, having notice of information of any violation of this Chapter, to notify the state's attorney of the fact of such violation and to furnish him the names of any witnesses within his knowledge by whom such violation can be proven, and if it be proven that any officer designated herein fails or refused to give the information required by this section, it shall constitute sufficient grounds for removal from office.

§ 20. Every person, who shall, directly or indirectly, keep or

maintain by himself or by an association, or combining with others, or who shall in any manner aid, assist or abet in keeping or maintaining any club room or other place of whatsoever nature, name, kind or description, in which any intoxicating liquor, as defined herein, including the beverages described in Section 3 of this act, is received or kept for the purpose of use, gift, barter or sale as a beverage, or for distribution or division among the members of any such club or association, by any means whatsoever; and every person who shall use, barter, sell or give away or assist or abet another in bartering, selling or giving away any intoxicating liquors, including the beverages described in Section 3 herein, so received or kept, shall be deemed guilty of a misdemeanor, and shall be punished as provided for in this act.

§ 21. It shall be the duty of the states attorney and all police officials to rigidly enforce the provisions of this act, and their failure so to do shall be sufficient grounds for their removal from office.

§ 22. PLACE OF SALES A NUISANCE: TO BE ABATED: LIQUORS TO BE DESTROYED: PENALTIES: RELEASE OF PROPERTY: BOND.] All places where intoxicating liquors are sold, bartered or given away, in violation of any of the provisions of this chapter, or where persons are permitted to resort for the purpose of drinking intoxicating liquors as a beverage or where intoxicating liquors are kept for sale, barter or delivery in violation of this chapter, are hereby declared to be common nuisances; and if the existence of such a nuisance is established, either in a criminal or equitable action, upon the judgment of a court or judge having jurisdiction, finding such place to be a nuisance, the sheriff, his deputy or under sheriffs, or any constable of the proper county or marshal of any city where the same is located, shall be directed to shut up and abate such place by taking possession thereof, if he has not already done so under the provisions of this chapter and by taking possession of all such intoxicating liquors found therein, together with all signs, screens, bars, bottles, glasses and other property used in keeping and maintaining such nuisance and such personal property so taken possession of shall, after judgment, be forthwith publicly destroyed by such officer, and the owner or keeper thereof or any person who, in any manner, by using such place for the illegal purposes forbidden herein, or otherwise aids, abets, or assists in any violation of this section or chapter, shall upon such conviction, be adjudged guilty of maintaining a common nuisance, and shall for the first offense be punished by a fine of not less than \$200 nor more than \$1,000, and by imprisonment in the county jail not less than ninety days nor more than one year, and for the second and every successive offense be punished by imprisonment in the penitentiary not exceeding two years and not less than one year; and said officer abating such nuisance shall securely close said building, erection or place where such nuisance was located, as against the use or occupation of the same

for saloon purposes, and keep the same securely closed for the period of one year (unless sooner released as hereinafter provided), and any person breaking open said building, erection or place, or using the premises so ordered to be closed, shall be punished for contempt, as hereinafter provided, in case of violation of injunctions; provided, however, that when leasehold premises are closed under a temporary injunctinal order or having been adjudged to be a nuisance, the owner thereof shall have the right to terminate the lease by giving three days' notice thereof, in writing to the tenant, and when this is done, if the said owner shall prove to the court that he was without fault, and neither knowingly, nor without knowledge negligently permitted the keeping or maintaining of the nuisance complained of, the premises shall be turned over to the owner upon the order of the court or judge as hereinafter set forth. But the release of the property shall be upon the condition that the nuisance shall not be continued, and the return of the property shall not release any lien upon said property occasioned by any prosecution of the tenant. If the owner appears and pays all costs of the proceedings and files a bond with sureties to be approved by the clerk in the full value of the property to be ascertained by the court or judge, conditioned that he will immediately abate said nuisance and prevent the same from being established or kept therein within the period of one year thereafter the court, or in vacation time the judge may, if satisfied of his good faith, order the premises taken and closed under the order of abatement, to be delivered to said owner; and if the proceeding is an action either at law or in equity, and bond is given and costs therein paid, the action shall be dismissed at the end of one year from the date of the service of the temporary injunctinal order, if in an equity case, or the closing of the premises if in a criminal case; in the meantime and in either form of action the premises where such nuisance was kept and maintained, shall be regarded as being under a restraining order of the court, a violation of which will subject the violator to punishment for contempt as hereinafter provided; provided, however, that the release of the property under the provisions of this section shall not release it from any judgment, lien or penalty, or liability to which it may be subject under any statute or law. Provided, further, that when an injunction, either temporary or permanent, has been granted, under the provisions of this chapter, the same shall be binding personally on the defendant or defendants, throughout the entire state, and for the violation of such injunction in any place in the State of North Dakota, the offending party shall be punished as for contempt according to the rules in this chapter prescribed.

§ 23. ACTIONS, HOW MAINTAINED: PROCEDURE: PRESUMPTIONS: PENALTIES.] The attorney-general, his assistant, state's attorney, or any citizen of the county where such nuisance exists or is kept or is maintained, may maintain an action in the name of the state to abate and perpetually enjoin the same. The injunction shall

be granted at the commencement of the action in the usual manner of granting injunctions, except that the affidavit or complaint, or both, may be made by the state's attorney, attorney-general or his assistant upon information and belief, and no bond shall be required; and if an affidavit shall be presented to the court or judge, stating or showing that intoxicating liquor, particularly describing the same, is kept for sale, or is sold, bartered or given away on the premises, particularly describing the same, where said nuisance is located contrary to law, the court or judge must at the time of granting the injunction issue his warrant commanding the officer serving said writ of injunction, at the time of such service to search diligently the premises and carefully invoice all the articles found therein, used in or about the carrying on of the unlawful business, for which search and invoicing said officer shall receive the sum of ten dollars in addition to the fees now allowed by law for serving an injunction. If such officer upon such search shall find upon such premises any intoxicating liquor or liquors of any kind, he shall take the same into his custody and securely hold the same to abide the final judgment in the action, the expenses for such holding to be taxed as part of the costs in the action; and such officer shall also take and hold possession of all personal property found on such premises, and shall take and hold possession of such premises and keep the same closed until such final judgment. The finding of such intoxicating liquor or liquors on such premises shall be prima facie evidence of the existence of the nuisance complained of. Any person violating the terms of any injunction granted in such proceedings shall be punished for contempt, for the first offense by a fine of not less than two hundred nor more than one thousand dollars, and by imprisonment in the county jail not less than ninety days nor more than one year, and for the second and every successive offense of contempt by imprisonment in the penitentiary not exceeding two years and not less than one in the direction of the court or judge thereof. In case judgment is rendered in favor of the plaintiff in any action, brought under the provisions of this section, the court or judge rendering the same shall also render judgment for a reasonable attorney's fee in such action, in favor of the plaintiff and against the defendants therein, which attorney's fee shall be taxed and collected as other costs therein, and when collected paid to the attorney or attorneys of the plaintiff therein; provided, if such attorney is the state's attorney such attorney's fee shall be paid into the county treasury as in section 10110 provided. In contempt proceedings arising out of the violation of any injunction granted under the provisions of this chapter the court, or in vacation the judge thereof, shall have the power to try summarily and punish the party or parties guilty as required by law. Process shall run in the name of the State of North Dakota. The affidavits upon which the attachment for contempt issues shall make a prima facie case for the state. The accused may plead in the same manner as to an information or indict-

ment, insofar as the same is applicable. Evidence may be oral or in the form of affidavits, or both; the defendant may be required to make answer to interrogatories, either written or oral, as in the discretion of the court or judge may seem proper; the defendant shall not necessarily be discharged upon his denial of the facts stated in the moving papers; the clerk of the court shall, upon the application of either party, issue subpoenas for witnesses, and except as above set forth, the practice in such contempt proceedings shall conform as nearly as may be to that adopted by the nineteenth rule of the supreme court of the United States for proceedings in equity in the circuit courts.

§ 24. That it is the intent of the Legislature in enacting this law to continue in full force and effect all statutes of the state prohibiting the manufacture, sale and possession of intoxicating liquors, together with the penalties set forth therein, except insofar as the same are inconsistent with the provisions of this act.

§ 25. Any person violating any of the provisions of this act shall, for the first offense, be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than \$200 or more than \$500, or be imprisoned in the county jail for a period of not more than six months, and for every succeeding offense, shall be deemed guilty of a felony and be punished by imprisonment in the penitentiary not exceeding two years.

§ 26. It is hereby declared that, if any of the provisions of this 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; therefore, 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.

§ 27. No provision of this act shall apply to alcohol intended for use in the manufacture and sale of any of the following articles when they are unfit for beverage purposes, namely:

- (a) Denatured alcohol produced and used pursuant to acts of Congress and regulations promulgated thereunder;
 - (b) Patent, proprietary, medicinal, pharmaceutical, antiseptic and toilet preparations;
 - (c) Flavoring extracts, syrups, and food products;
 - (d) Scientific, chemical, mechanical, and industrial products;
- nor to the manufacture and sale of any of said articles containing alcohol;

Provided, however, that this section shall not apply in any case where any person shall knowingly sell any of the articles enumerated in sub-paragraphs (a), (b), (c), and (d) for beverage pur-

poses, or shall sell any of the same under circumstances from which the seller might reasonably deduce the intention of the purchaser to use them for such purposes.

Approved March 8, 1935.

CHAPTER 204

S. B. No. 222—(Coffey and Miklethun)

CITY PARK COMMISSIONERS—ELECTION, TERM OF OFFICE, FILLING VACANCIES

An Act to amend and re-enact Section 4058 of the Compiled Laws of North Dakota for 1913, as amended by Section 1 of Chapter 180 of the Session Laws of the State of North Dakota for 1929, relating to the organization of a Board of Park Commissioners, defining the qualifications, mode of election and term of office of such commissioners and prescribing the manner of filling vacancies of said board, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 4058 of the Compiled Laws of North Dakota for 1913 as amended by Section 1, of Chapter 180 of the Session Laws of North Dakota for 1929 is hereby amended and re-enacted to read as follows:

§ 4058. ELECTION OF COMMISSIONERS, FILLING VACANCIES.] The powers of each park district shall be exercised by a Board of Park Commissioners consisting of five members who shall hold office for the period of six years from and after the date of their election and qualification and until their successors are duly elected and qualified, except the members of the first board who shall hold office as follows: One member until the third Tuesday in April in the year in which the next regular biennial city election is held, two members until two years following such last mentioned date, and two members until four years following such last mentioned date. The members of the park commission shall qualify by taking and filing with the city auditor of the city the oath prescribed by Section 211 of the Constitution. The city treasurer shall be ex-officio treasurer of the park district. He shall take the oath prescribed by Section 211 of the Constitution and shall furnish such bond as may be required by the commission. The members of the commission shall be elected by the qualified electors of the park district at the regular elections of the city, and shall qualify within ten days after their election, and on the third Tuesday of April after the election shall organize by the selection of a president and vice-president. The first board may be elected at any regular city election, or at a special election for that purpose called by the city council or the city commission. The members of the board shall receive no compensation for their services as such, and shall have the qualifications of electors

of such district. They shall not be interested in any contract entered into by said commission. Vacancies on such board shall be filled by the board until the next regular election of members of the board, when such vacancies shall be filled by election. Removal of residence from the park district by any member of the commission shall create a vacancy. Members of such boards elected prior to the taking effect of this act shall continue to serve in their respective official capacities until their successors have been elected at regular city elections in accordance with the provisions hereof and until they have qualified for such offices.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved March 12, 1935.

CHAPTER 205

S. B. No. 185—(Cain)

JURISDICTION POLICE MAGISTRATES AND CITY JUSTICES OF THE PEACE

An Act defining the jurisdiction of Police Magistrates and City Justices of the Peace in criminal actions in cities of five thousand inhabitants or more in counties wherein the County Court does not have increased jurisdiction; qualifications and fees of said Police Magistrates and City Justices of the Peace; procedure, jurors and officers in said Police Magistrates Courts and Courts of said City Justices of the Peace; limitations of jurisdiction of Justices of the Peace in said cities; and repealing all acts and parts of acts in conflict therewith.

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

§ 1. JURISDICTION OF POLICE MAGISTRATES AND CITY JUSTICES OF THE PEACE.] Each police magistrate shall have exclusive jurisdiction, and it shall be his duty to hear, try and determine all offenses against the city in which he is elected or appointed; and all police magistrates and city justices of the peace shall have concurrent jurisdiction with all justices of the peace of the county in all matters and other actions, civil and criminal. Justices of the peace, except said city justices of the peace in counties containing cities of 5,000 inhabitants or more, situate in counties where the county court does not have increased jurisdiction, shall have no jurisdiction to hear and determine criminal actions, or sit as committing magistrates except in cases of felony, and in cities of 5,000 inhabitants or more situate in counties where the county court does not have increased jurisdiction the police magistrates and city justices of the peace shall have exclusive jurisdiction to hear, try and determine

all cases of misdemeanors and criminal actions below the grade of felony, and may sit as committing magistrates in cases of felony, and prosecutions of said criminal actions shall be by information.

§ 2. QUALIFICATIONS OF POLICE MAGISTRATES AND CITY JUSTICES OF THE PEACE.] No person shall be eligible to election to the office of police magistrate or city justice of the peace in such cities who is not a qualified elector of the city, and who shall not have resided therein at least nine months before the last preceding election, and no person shall be eligible to hold either of said offices by appointment unless he is a citizen of the United States. And no person shall be eligible to election or appointment to the office of police magistrate or the office of city justice of the peace in cities of five thousand inhabitants or more, situate in counties where the county court has not increased jurisdiction, unless such person is an attorney at law and if the incumbent of any such office of police magistrate or city justice of the peace shall not have all of the qualifications for such office as herein provided, then immediately upon the taking effect of this act such office shall become vacant automatically and the office shall then be filled by appointment as now provided by law.

§ 3. FEES OF POLICE MAGISTRATES AND CITY JUSTICES OF THE PEACE.] Fees of police magistrates and city justices of the peace in said cities shall be and remain as is now provided by law, and in the trial of all misdemeanors by them, or either of them, or heard by them or either of them, and for all services of any kind, and in appeals taken, shall be as now provided by law and as shall be allowed justices of the peace or other officers for like services.

§ 4. GENERAL PROVISIONS TO APPLY.] The general provisions of law which may at any time be in force relating to the district courts, county courts of increased jurisdiction, and justices of the peace in civil and criminal proceedings therein shall also relate to the police magistrates and city justices of the peace of said cities, and the rules and practices of district courts, county courts of increased jurisdiction, and justices of the peace shall be in force in said police magistrates courts and courts of city justices of the peace when applicable and except as herein otherwise provided.

§ 5. MANNER OF SELECTING JURY IN CRIMINAL ACTION.] Jurors to serve in any criminal action in said police magistrate court or court of city justice of the peace shall be selected from a jury list of one hundred qualified jurors to be furnished said police magistrate or city justice of the peace by the mayor and city council or board of city commissioners, whose duty it shall be to select such names as jurors from residents of said city and to furnish said list to such judge. Whenever said list of jurors is partly exhausted by reason of service as jurors in criminal actions, the judges of said court shall notify the boards whose duty it is to replenish said list, and said board shall furnish additional names to said judges so that

there shall always be one hundred names of qualified jurors in said jury box; provided, however, that no juror shall serve on more than five criminal actions in any two-year period. The governing board of the municipality shall select said list of jurors in the manner now provided by law for the selection of jurors to serve on district court juries. The failure of said municipal board to comply strictly with the provisions of this act shall not invalidate the list of names remaining in the jury box of said police magistrate or city justice of the peace.

§ 6. JURY TRIAL.] In all criminal actions the defendant shall be entitled to a trial by a jury and when the defendant is arraigned he shall be informed by the court of his rights to a trial by a jury and if he waives his right to a jury trial an entry to that effect shall be made in the docket and the defendant shall then be tried by the court.

§ 7. JURY IN CRIMINAL ACTION, HOW COMPOSED.] The jury in all criminal actions shall be composed of twelve residents of the city in which the police magistrate and city justice of the peace is elected or appointed having the qualifications of jurors, and the jurors mentioned shall be selected, summoned and impaneled as in the district court in like criminal actions and each party shall be entitled to the same number of challenges as now or may hereafter be allowed in the district court in like actions; the said police magistrate or city justice of the peace presiding at any trial, as the case may be, to draw a jury from the box containing the list of said jurors, said drawing to be in the presence of the parties and their attorneys and the state's attorney.

§ 8. BAILIFF.] The sheriff or any of his deputies, chief of police or any policeman, or any constable may be appointed at any trial as bailiff of the court during the said trial by the police magistrate or by the city justice of the peace, and shall receive for his services the sum of two dollars each day he serves as said bailiff.

§ 9. PRELIMINARY EXAMINATIONS.] No preliminary examination shall be necessary before the trial in criminal actions in the said police magistrate court or court of city justice of the peace in which the said courts have original jurisdiction.

§ 10. ASSIGNMENT OF COUNSEL.] In all criminal cases triable in the police magistrate court or in the city justice of the peace court in cities in which said courts have exclusive and original jurisdiction, when it is satisfactorily shown to the court that the defendant has no means and is unable to employ counsel, the court shall in such case assign counsel for the defendant and allow and direct to be paid by the county in which said court is held a reasonable and just compensation to the attorney or attorneys assigned for such services as they may render, provided, however, that said compensation shall not exceed twenty-five dollars in any one case.

§ 11. COURT STENOGRAPHER.] The police magistrate having increased jurisdiction as herein is authorized to appoint a court stenographer to hold office during the pleasure of the police magistrate, who shall qualify in the same manner as the court stenographer of a district court, said court stenographer to be appointed to act only when a criminal trial is being had so that a record of the proceedings may be preserved for purposes of appeal, said court stenographer also to act in the court of the city justice of the peace when the city justice of the peace has before him the trial of a criminal action. The compensation of the said court stenographer shall be paid in the same manner as the court stenographer of the district court, at such compensation as the board of county commissioners shall designate, not to exceed the sum of five dollars per day when actually employed, said stenographer to receive the same fees for transcripts and copies as is now allowed the stenographer in district court.

§ 12. PREJUDICE OF POLICE MAGISTRATE OR OF THE CITY JUSTICE OF THE PEACE.] When the defendant or his attorney before the trial of a criminal action commences files an affidavit in writing stating that he has reason to believe and does believe that a fair and impartial trial of the action cannot be had before the police magistrate or before the city justice of the peace about to try the same by reason of the bias or prejudice of said police magistrate or of said city justice of the peace, the action must be transferred if about to be tried by the police magistrate to the city justice of the peace, and if about to be tried by the city justice of the peace must be transferred to the police magistrate, and an order must be made transferring the same accordingly. But after such change of venue the state's attorney or other attorney for the state, may file a like affidavit and the action shall then be transferred to the district court of the county.

§ 13. WHEN A CHANGE OF PLACE OF TRIAL IS ORDERED.] To the original papers a certified copy of the docket entries in the action must be forthwith attached and the court must deliver same to an officer, who shall without delay deliver same to the court to which the action has been transferred and take the defendant before said court.

§ 14. NEW TRIALS IN CRIMINAL ACTIONS.] In all criminal actions or proceedings brought in the police magistrate court or court of city justice of the peace in said cities set forth in this act, the police magistrate and city justice of the peace shall have authority to grant new trials, vacate and set aside verdicts and entertain motions to arrest judgment in the same manner and pursuant to the same statutes, rules and regulations now prescribed by law for the district courts, and a statement of the case may be prepared and settled in the same manner prescribed for appeals in the Code of Criminal procedure.

§ 15. APPEALS IN CRIMINAL ACTIONS.] In all criminal actions brought in police magistrate court or court of city justice of the peace, as provided for in this act an appeal may be taken to the supreme court in the same manner and pursuant to the same rules as appeals from the district court to the supreme court, the duties that are now performed by the clerk of the district court on appeals from the district court to be performed by the police magistrate or by the city justice of the peace.

§ 16. FEES OF JURORS.] The fees of jurors shall be for each days attendance as juror, two dollars, and traveling expenses for each mile actually and necessarily travelled each way, five cents.

§ 17. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 12, 1935.

CHAPTER 206

H. B. No. 292—(Muus)

AUTHORIZING CITIES AND VILLAGES TO ISSUE BONDS FOR PURCHASING OUTSTANDING SPECIAL IMPROVEMENT WARRANTS

An Act authorizing and empowering cities and villages to issue bonds for the purpose of purchasing outstanding special improvement warrants, and declaring an emergency.

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

§ 1. All cities and villages are hereby authorized and empowered to issue bonds for the purchase of outstanding special improvement warrants of said city or village before or after maturity thereof at the best price obtainable but not exceeding sixty per cent (60%) of the par value thereof and accrued interest to date of purchase; provided, however, that the rate of interest on the bonds shall not exceed the rate of interest on the special improvement warrants purchased; provided, further, that said bonds shall not be sold for less than par value thereof and the accrued interest thereon.

§ 2. Such bonds may be issued pursuant to resolution or ordinance of the governing body of the city or village without submitting the question to the electors of the city or village, nor shall it be necessary that the issuance of said bonds be submitted to the Board of Budget Review in the manner required by law for other bond issues. Such bonds shall mature serially, the first installment to fall due not more than three years and the last installment to fall due not more than twenty years from the date of such bonds.

§ 3. All such bonds shall be general obligations of the city and the full faith and credit and unlimited taxing power shall be pledged to their payment.

§ 4. The governing body of said city or village shall create a special fund for the payment of the principal and interest of the bonds as the same become due. For that purpose it shall credit to said fund all special assessments collected for the benefit of the special improvement warrants purchased, and shall annually cause a general tax levy to be made against all taxable property in the municipality in an amount which, together with the special assessments collected, will be sufficient to pay the principal and interest of the bonds when the same become due. If upon payment of all of the bonds and interest thereon, any money remains in the special fund, the same may be transferred to the general fund. Such general tax levy shall not be subject to any tax levy limitations imposed by Chapter 235 of the Session Laws of North Dakota for 1929 or acts amendatory thereof or supplemental thereto.

§ 5. This act shall be deemed and construed complete in and of itself and is intended to be an additional remedial measure and shall not be deemed to have amended or repealed any existing law.

§ 6. 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 13, 1935.

CHAPTER 207

S. B. No. 97—(Jones and Coffey)

REFUNDING SPECIAL IMPROVEMENT WARRANTS

An Act relating to refunding special improvement warrants, repealing Chapter 178 of the Session Laws of North Dakota for 1929 and all other acts in conflict herewith and declaring an emergency.

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

§ 1. Any city or village having valid outstanding special improvement warrants may issue refunding special improvement warrants for the purpose of extending the maturities thereof whenever any of said warrants are past due and there is not sufficient money in the special improvement fund for their payment.

§ 2. Refunding warrants may be authorized by a resolution of the governing body describing the warrants to be refunded and fixing the amount, maturity and other details of the refunding warrants. The refunding warrants shall bear such date, be in such denomination, and mature at such time or times, not exceeding twenty years, as the governing body shall determine and may be made subject to redemption at any specified time or times if so provided in the initial resolution. The rate of interest shall not exceed the rate of interest on the warrants to be refunded thereby.

§ 3. Refunding warrants may be sold for cash in such manner as the governing body may direct and the proceeds used to pay the warrants described in the initial resolution, or may be exchanged for such warrants, but no such sale or exchange shall be made at less than par and accrued interest. Refunding warrants may be issued from time to time as the original warrants mature or may be exchanged for warrants which are not due by agreement with the holders thereof. The governing body may enter into an agreement with the holders of outstanding warrants relating to an exchange for refunding warrants and may provide that such agreement shall be effective when the holders of not less than seventy-five per cent of the said warrants shall have entered into said agreement.

§ 4. Refunding warrants shall be payable out of the special improvement fund provided for the payment of the warrants refunded thereby and it shall be the duty of the city or village to preserve and enforce, for the security of the refunding warrants, all rights and duties which constituted security for the refunded warrants. Among the rights and duties so to be preserved shall be the duty of the governing body of the city or village to levy a tax for the payment of any deficiency in the special improvement fund and such tax shall be levied at the date of maturity of the last maturing warrant of the original issue, but may be payable in the years and amounts required to pay principal of and interest on the refunding warrants as the same become due.

§ 5. Chapter 178 of the Session Laws of North Dakota for 1929, and all other acts in conflict herewith, are hereby repealed.

§ 6. 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 1, 1935.

CHAPTER 208

H. B. No. 259—(Downey, Gessner and Traynor)

LIMITATION TAX LEVIES CITIES

An Act to amend and re-enact Sub-section (b) of Section 5, of Chapter 235 of the Session Laws of 1929, as amended by Chapter 297 of the Session Laws of 1931, relating to tax levy, limitations of cities.

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

§ 1. AMENDMENT.] That Sub-section (b) of Section 5, of Chapter 235 of the Session Laws of 1929, as amended by Chapter 297 of the Session Laws of 1931 is hereby amended and re-enacted to read as follows:

(b) The aggregate amount levied for general city purposes shall not exceed such an amount as will be produced by a levy of

fourteen mills on the net taxable assessed valuation of property in the city, provided that in cities supporting bands and/or public libraries that an additional levy not to exceed two mills on the net taxable assessed valuation of property in such cities may be made for these purposes.

Approved March 13, 1935.

NORTH DAKOTA

CHAPTER 209

S. B. No. 220—(Handley and Lowe)

SUSPENSION 1935 STATE CENSUS

An Act to suspend the operating of Chapter 24 of the Political Code of the State of North Dakota for the year 1913, being Sections 1889 to 1902 both inclusive of said compiled laws, relating to the enumeration of inhabitants in the State of North Dakota, and declaring an emergency.

WHEREAS: Due to the financial condition of the state, it is deemed advisable to suspend the operation of the aforesaid Chapter and eliminate the taking of the state census for the year 1935.

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

§ 1. That the provisions of Chapter 24 of the Political Code of North Dakota being Sections 1889 to 1902 both inclusive of the Compiled Laws for the year 1913, relating to the census in so far as the same relates to the taking of said census in 1935 and the same is hereby suspended.

§ 2. No state census shall be taken during the year 1935 and the Secretary of State is hereby prohibited from furnishing and submitting the necessary blanks to the several county auditors and the assessors of the several townships, cities and villages are hereby prohibited from performing any duty or incurring any expense in connection with said matter until the year 1945, all acts or parts of acts to the contrary notwithstanding.

§ 3. EMERGENCY.] Whereas under the provisions of the laws it will be necessary, and it is made the duty of the Secretary of the State and various county auditors and assessors to perform duties and incur expenses in connection with the 1935 state census, therefore 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 5, 1935.